



# Civil Resolution Tribunal

Date Issued: April 19, 2023

Files: SC-2022-003774 and  
SC-2022-008144

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Woo v. Laframboise*, 2023 BCCRT 319

B E T W E E N :

CHRISTINA JIEUN WOO

**APPLICANT**

A N D :

EMALIE LAFRAMBOISE

**RESPONDENT**

A N D :

CHRISTINA JIEUN WOO

**RESPONDENT BY COUNTERCLAIM**

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**REASONS FOR DECISION**

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Tribunal Member:

Leah Volkers

## **INTRODUCTION**

1. This dispute is about a dog attack. This decision relates to 2 linked disputes that I find collectively consist of 1 claim and 1 counterclaim. So, I have issued 1 decision for both disputes.
2. Christina Jieun Woo is the applicant in SC-2022-003774 and the respondent by counterclaim in SC-2022-008144. Emalie Laframboise is the respondent in SC-2022-003774 and the applicant by counterclaim in SC-2022-008144. While SC-2022-008144 was started as a separate dispute, I find it is a counterclaim to SC-2022-003774.
3. Ms. Woo owns a Goldendoodle dog named Latte. Ms. Laframboise owns a Staffordshire Terrier dog named Maple. Ms. Woo says Maple attacked Latte, and caused injuries that required veterinary care including surgery. Ms. Woo claims \$901.60 for Latte's veterinary medical care costs.
4. Ms. Laframboise disputes Ms. Woo's claims. She says Latte instigated the attack, and says Maple acted in self-defence. She says Maple also suffered injuries that required veterinary care. Ms. Laframboise also says Ms. Woo began harassing and threatening her after the attack, which she says has exacerbated her anxiety, depression, "OCD" and fibromyalgia. In her counterclaim, Ms. Laframboise collectively claims \$1,851.71 for veterinary care costs, missed work, and exacerbation of mental illness and emotional distress. Ms. Woo disputes Ms. Laframboise's counterclaims.
5. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and

flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.

7. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both parties in this dispute call into question the credibility, or truthfulness, of the other. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.
8. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
9. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

### ***Alleged mental distress***

10. In their submissions, and in response to Ms. Laframboise's counterclaim, Ms. Woo says they also suffered mental distress as a result of the dog attack. They also provided documentary evidence of counselling receipts and medication. Ms. Woo did

not specifically claim any amount for their alleged mental distress in their submissions, and this claim was not included in their Dispute Notice. The CRT allows parties to amend their Dispute Notices if they want to add additional claims. However, Ms. Woo did not amend their Dispute Notice to include a claim for damages for mental distress. Therefore, I find that this claim is not properly before me, and I decline to address it.

## **ISSUES**

11. The issues in this dispute are:

- a. Are either Ms. Woo or Ms. Laframboise responsible for the other party's dog's injuries and related expenses?
- b. Is Ms. Laframboise entitled to damages for emotional distress?

## **EVIDENCE AND ANALYSIS**

12. In a civil proceeding like this one, Ms. Woo must prove their claims on a balance of probabilities (meaning more likely than not). Ms. Laframboise bears the same burden for her counterclaim. I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.

13. On May 26, 2022, both parties were in a local off-leash dog park with their respective unleashed dogs. There was an incident between the dogs. The parties shared their contact information after the incident. None of this is disputed. However, both parties say the other party's dog was the aggressor and instigated the attack, and provided conflicting versions of the events leading up to the attack and the attack itself.

14. Ms. Woo says when the dogs approached each other Maple started growling, showed her canine teeth at Latte and tried to jump on top of Latte. Ms. Woo says Ms. Laframboise then put Maple back on the leash and went to the other side of the dog park. Ms. Woo says Ms. Laframboise approached them and asked if she could take Maple off-leash again. Ms. Woo says they hesitantly agreed as long as Ms.

Laframboise could control Maple. Ms. Woo says that almost immediately after Ms. Laframboise removed Maple's leash, Maple attacked Latte. Ms. Woo says the attack lasted a few seconds.

15. In contrast, Ms. Laframboise says when she entered the park with Maple, Latte ran up to Maple growling. Ms. Laframboise does not dispute that she put Maple back on her leash, but says that Ms. Woo advised her that Latte would be fine and said Ms. Laframboise could take Maple back off leash. Ms. Laframboise says she took Maple back off the leash and Maple ran around the park. She says when Maple ran back to Ms. Laframboise, Latte was close by and Maple went over to "say hi". Ms. Laframboise says Latte snarled, showed her teeth, and instigated the altercation with Maple. Ms. Laframboise says Maple used her chest and pushed Latte to the ground in self defence. She says Latte put seven puncture wounds onto Maple's face and Maple bit Latte's leg to try to get Latte to let go of Maple's face.
16. Ms. Woo also submitted a witness statement from AS. The evidence shows Ms. Woo posted on social media in search of witnesses after the attack, and was contacted by AS. Based on the evidence before me, I find AS is not Ms. Woo's friend or family member, but was an unknown bystander at the time of the incident. So, I find AS is neutral in this dispute.
17. AS said they were with their dog in the off-leash dog park when the incident occurred. AS said they observed a series of altercations between Maple and Latte. AS said that Maple appeared to be in a "state of heightened alertness, bordering on aggression", which appeared to make Latte appear nervous and uncomfortable as well. AS said Maple and Latte's respective owners had to separate them once when Maple growled and tried to climb on top of Latte. AS said Maple's owner had to drag Maple back by the collar and struggled for control. AS said although Latte's behaviour was "not submissive", it was "that of a friendly normal dog". AS said Latte's owners sat with him until he was calm and Maple's owner put Maple back on a leash, "but never made the dog submit". AS said Maple's owner eventually suggested to let the dogs try again, and says Latte's owner agreed but "seemed hesitant". AS said when the dogs

approached each other, Maple “attacked almost immediately”. AS said Maple got a hold of Latte’s leg, and Latte was shrieking in pain as the owners tried to separate the dogs. AS also said Maple’s owner struggled to make Maple “release”. AS said they saw blood on Latte’s body and Maple’s muzzle. AS said Maple’s body language was still tense after the attack. AS said they left the park after the attack because they were upset by the situation and worried for their own dog’s safety.

18. Based on their statement, I find that AS’s conclusion was that Maple was the aggressor and attacked Latte. Ms. Laframboise alleges that AS’s dog jumped up and licked AS’s face after the attack, and argues that AS is not in a credible position to discuss dog obedience as a result. I place no weight on this allegation. I find AS provided a summary of their observations of the events leading up to the attack and during the attack itself. As noted, I find AS is neutral in this dispute. Therefore, I accept and place significant weight on AS’s evidence, which I find was unbiased. I also find AS’s evidence is generally consistent with Ms. Woo’s description of the attack and surrounding events. Therefore, I prefer AS and Ms. Woo’s evidence on how the attack occurred. I find that Maple was the aggressor and attacked Latte.
19. Ms. Laframboise also says that Ms. Woo texted her after the attack and said they knew Latte would be aggressive. Ms. Woo disputes this and says the text message was meant to convey that they had no concerns about Latte being aggressive. I have reviewed the parties’ text history in evidence. I find when reading it as a whole, it is clear that Ms. Woo was arguing that Latte was not the aggressor. I find the text message Ms. Laframboise relies on is not an admission by Ms. Woo that Latte was aggressive prior to the attack, or that they knew Latte would be aggressive. For clarity, I find the evidence as a whole does not support a finding that Latte was the aggressor before or during the attack.
20. With that, I turn to whether Ms. Laframboise, as Maple’s owner and the person in control of Maple at the time, is responsible for Latte’s injuries.
21. In British Columbia there are three ways for an owner to be responsible for a dog’s actions: a) the legal concept known as “scienter”, b) negligence, and c) occupier’s

liability under the *Occupier's Liability Act*. As the incident did not occur on property owned or controlled by Ms. Laframboise, I find occupier's liability does not apply here.

22. Scienter is when a dog has previously shown a tendency to cause the type of harm that happened here and the dog's owner knew of that tendency. See *Janota-Bzowska v. Lewis*, 1997 CanLII 3258 (BCSC). Ms. Woo argues that scienter applies here because Maple was growling and snarling at Latte before being leashed up the first time, and before the attack. However, I find the prior growling and snarling on the day of the attack is not the same sort of aggression as the physical attack that followed. There is no indication that Maple had attacked another dog before attacking Latte. To the contrary, I find multiple witness statements from other dog owners whose dogs interacted with Maple support Ms. Laframboise's assertion that prior to the day of the attack, Maple had not displayed aggressive behaviour or attacked other dogs. Ms. Woo has not provided evidence that shows otherwise. So, I find scienter also does not apply here.
23. I now turn to negligence. To succeed, Ms. Woo must show that Ms. Laframboise owed a duty of care, failed to meet the expected standard of care, and that the failure caused the claimed damages that must have been reasonably foreseeable. In *Martin v. Lowe*, 1980 CanLII 546 (BCSC), the court said a dog owner has a duty to ensure their dog is sufficiently under control so that it will not escape to injure someone or damage their property. In that case, an unleashed dog knocked down a person on a sidewalk, causing injury. While the dog attack in this dispute occurred in an off-leash park rather than on a sidewalk, I find the same duty of care applies. I find Ms. Laframboise owed Ms. Woo a duty of care to reasonably maintain control of her dog and prevent attacks on other animals.
24. Ms. Laframboise says she had no reason to believe Maple would be aggressive. I disagree. I find the fact that Maple growled and snarled, and tried to jump on Latte a short time before the attack, and was re-leashed as a result, shows that Maple was acting aggressively towards Latte prior to the attack. As noted, I find Maple's growling and snarling is not the same type of aggression as that shown by Maple in the

physical attack itself, and so scienter does not apply. However, contrary to Ms. Laframboise's submission, I find it does show that she knew that Maple was acting aggressively towards Latte shortly before the attack occurred.

25. It is undisputed that Ms. Woo did not object to Ms. Laframboise taking Maple back off of her leash. However, I find this does not mean that Ms. Laframboise no longer had a duty to reasonably control Maple. Further, I accept that Ms. Woo's consent was conditional on Ms. Laframboise being able to maintain control of Maple. It was still Ms. Laframboise's decision to take Maple off of her leash, despite knowing that Maple had just acted aggressively towards Latte. It was also still Ms. Laframboise's responsibility to maintain reasonable control of Maple. I have already found that Maple attacked Latte almost immediately after being taken off leash. Given all the above, I find it was not reasonable for Ms. Laframboise to take Maple back off of her leash while near Latte. In the specific circumstances of this dispute, I find that in doing so, Ms. Laframboise breached her duty to reasonably maintain control of Maple and prevent attacks on other animals.
26. Ms. Laframboise suggests that Latte's injuries may have been sustained either before or after the attack. However, I find the evidence as a whole does not support this. Ms. Laframboise did not say that she saw any visible injuries with Latte before the attack. AS's statement says Maple had a hold on Latte's leg and would not let go, consistent with Ms. Woo's evidence. Although there are some minor inconsistencies between AS's statement and Ms. Woo's evidence about how much Latte was bleeding immediately following the attack, I find these minor inconsistencies do not show that Latte was uninjured in the attack.
27. The documentary evidence also shows that Latte saw a veterinarian on the same day as the attack. Latte's May 26, 2022 veterinary record from Haney Animal Hospital indicates that Latte had multiple wounds "on the front" of Latte's skin and coat, and a deep musculo-skeletal injury with profuse bleeding. The veterinary record shows that Latte underwent a radiograph of the "forelimb" to rule out injury to bone, and surgery to repair a "bite wound". Latte was also given several medications to take over a



period of the following 4 to 10 days. I find the evidence shows that Latte suffered a significant injury when attacked by Maple. I find Ms. Laframboise's negligence and breach of the standard of care led directly to Latte's injuries.

28. As I have found Ms. Laframboise is liable for Latte's injuries, I find she must reimburse Ms. Woo for their reasonable veterinary bills. Ms. Woo paid \$951.68 for Latte's veterinary care on May 26, 2022, the day of the attack. In their submissions, Ms. Woo claimed the entire \$951.68 for the costs of Latte's veterinary care. However, for reasons unexplained, they only claimed \$901.60 in her Dispute Notice. I find Ms. Woo's claim is limited to what they claimed in the Dispute Notice. Therefore, I find Ms. Laframboise must pay Ms. Woo \$901.60 for Latte's veterinary care.

### ***Ms. Laframboise's counterclaim***

29. In her counterclaim, Ms. Laframboise claims \$224.41 for Maple's veterinary expenses and \$627.30 for depleting their sick bank at work. I have found that Maple was the aggressor and attacked Latte. Therefore, I find Ms. Woo, as Latte's owner, is not responsible for Maple's injuries, or for Ms. Laframboise missing work following the attack. I dismiss Ms. Laframboise's counterclaim for Maple's veterinary expenses and their depleted sick bank at work.

30. Next, Ms. Laframboise also claims \$1,000 in damages for emotional distress and exacerbation of mental illness in her counterclaim. Ms. Laframboise alleges that Ms. Woo harassed her following the attack by filing RCMP and SPCA reports, threatening to take legal action if Ms. Laframboise did not compensate Ms. Woo for Latte's veterinary care costs, posting on social media, sending Ms. Laframboise multiple text messages, asking for Ms. Laframboise's address, and calling Ms. Laframboise's parents, among other things. As noted, Ms. Laframboise alleges that Ms. Woo's actions exacerbated her anxiety, depression, OCD and fibromyalgia, and significantly decreased her quality of life. For the following reasons, I find Ms. Laframboise has not proved they are entitled to any damages for emotional distress or exacerbation of mental illness.

31. First, there is no recognized tort of harassment in BC. See *Anderson v. Double M Construction Ltd.*, 2021 BCSC 1473 at paragraph 61. Arguably, Ms. Laframboise's harassment claim could also be considered under the tort of intentional infliction of mental distress. However, this would require Ms. Laframboise to prove that Ms. Woo engaged in flagrant or outrageous conduct that was calculated to produce harm, and that Ms. Laframboise suffered mentally in a visible or provable way. See *Mission Group Homes Ltd. v. Braam*, 2017 BCSC 1281, at paragraph 9.
32. Ms. Laframboise refers to a previous CRT dispute, *Chu v. Zavarukhina*, 2021 BCCRT 840, where another tribunal member found that a letter from a party's registered clinical counsellor was sufficient evidence to prove emotional distress, and awarded some reimbursement of some proven counselling expenses. Ms. Laframboise did provide screen shots of what I infer are likely appointments with some of their health care providers. However, I find this evidence does not prove that Ms. Laframboise suffered mental distress or exacerbation of mental illness as a result of Ms. Woo's alleged actions. Unlike in *Chu*, in this dispute Ms. Laframboise did not provide letters from any of her health care providers, medical records, or other evidence that would prove any such injury or damage.
33. Further, even if Ms. Laframboise had proved her damages, it is unlikely that any of Ms. Woo's alleged actions following the attack would amount to flagrant or outrageous conduct. To the contrary, many of Ms. Woo's alleged actions appear to be related to their efforts to serve Ms. Laframboise with the Dispute Notice and locate witnesses. However, given that damages are unproven, it is unnecessary to make any findings on this issue. I dismiss Ms. Laframboise's claim for damages for emotional distress and exacerbation of mental illness.

### ***Interest, CRT fees and expenses***

34. The *Court Order Interest Act* applies to the CRT. Ms. Woo is entitled to pre-judgment interest on the \$901.60 from May 26, 2022, the date of the veterinary invoice to the date of this decision. This equals \$20.11.

35. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Ms. Woo was successful in their claim, I find they are entitled to \$125 in paid CRT fees. Ms. Laframboise was unsuccessful in her counterclaim, so I dismiss her fee claim. Neither party claimed any dispute-related expenses.

## **ORDERS**

36. Within 30 days of the date of this order, I order Ms. Laframboise to pay Ms. Woo a total of \$1,046.71, broken down as follows:

- a. \$901.60 in damages,
- b. \$20.11 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in CRT fees.

37. Ms. Woo is entitled to post-judgment interest, as applicable.

38. I dismiss Ms. Laframboise's counterclaims.

39. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Leah Volkers, Tribunal Member