



Civil Resolution Tribunal

Date Issued: June 11, 2024

File: SC-2023-002682

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Maglio v. Bird*, 2024 BCCRT 531

B E T W E E N :

SAMANTHA ANN MAGLIO

APPLICANT

A N D :

MICHAEL JONATHAN BIRD (aka MICHAEL JONATHAN CASANOVA)

RESPONDENT

REASONS FOR SUMMARY DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. This is a summary decision of the Civil Resolution Tribunal (CRT).
2. The parties are former romantic partners who acquired a pet dog, Leo, during their relationship. The parties shared ownership of Leo after they separated in August 2020, but the applicant, Samantha Ann Maglio, says that the respondent, Michael Jonathan Bird (aka Michael Jonathan Casanova), ultimately failed to return Leo to

her in February 2023. Miss Maglio asks for an order that Mr. Bird return Leo to her permanently.

3. Mr. Bird says that Leo was a gift to him, and that he is Leo's sole owner. So, he asks that Miss Maglio's claims be dismissed.
4. Both parties are self-represented.
5. For the reasons set out below, I find the CRT does not have jurisdiction to resolve this dispute, and I refuse to resolve it.

JURISDICTION AND PROCEDURE

6. These are the CRT's formal written reasons. The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act (CRTA)*. CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
7. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Both parties in this dispute question each other's credibility, or truthfulness. However, disputes that involve an assessment of the parties' credibility do not necessarily require an oral hearing.¹ Further, as explained below, this dispute involves a jurisdictional issue which I find I can fairly decide based on the parties' submissions and evidence before me. Considering the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
8. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The CRT may also ask questions of the parties and inform itself in any other way it considers appropriate.

¹ *C.2K Holdings Ltd. v. The Owners, Strata Plan K 577*, 2019 BCSC 1981 at paragraph 33.

9. Under CRTA section 10(1), the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction.

ISSUE

10. The issue in this summary decision is whether this dispute is within the CRT's jurisdiction.

EVIDENCE AND ANALYSIS

11. As the applicant in this civil proceeding, Miss Maglio must prove her claims on a balance of probabilities, meaning more likely than not. I have considered the parties' evidence and submissions but only refer to what is necessary to explain my decision.

Jurisdiction

12. As noted, the parties agree that they acquired Leo during their romantic relationship, which lasted from July 2017 to August 2020. The parties agree that they lived together for a portion of their relationship, but their submissions were unclear about for how long. Through CRT staff, I asked the parties to provide detailed submissions about how long they lived together.
13. This is important because if the parties lived together in a marriage-like relationship for at least 2 years, they are considered "spouses" under the *Family Law Act* (FLA). Under the FLA, property (including pets) that is owned by at least one spouse on the date of separation is "family property". Disputes about the division of family property are within the exclusive jurisdiction of the BC Supreme Court under FLA sections 88 and 94. So, if the parties are spouses, then Leo is family property and only the BC Supreme Court may make an order about his ownership.
14. While the parties agree that they separated in August 2020, they disagree about when they began living together as a couple. Miss Maglio says that the parties lived together in Victoria beginning in October 2017. In contrast, Mr. Bird says the parties did not live together until they moved to Nelson together in October 2018.

15. Mr. Bird says that while Miss Maglio often slept at his apartment in Victoria while the parties were dating, she had her own place to live. Mr. Bird says that he was the only tenant on the lease for his apartment, and Miss Maglio did not live there.
16. While Miss Maglio agrees that she continued renting a unit with a friend in Victoria while she and Mr. Bird were together, her undisputed submission is that she gave up this rental unit in June 2018. So, regardless of whether Miss Maglio and Mr. Bird lived together while Miss Maglio maintained her separate rental, I find that the latest the parties began living together was in June 2018. As this is more than 2 years before the parties separated in August 2020, I find the parties lived together for at least 2 years, and so they are spouses under the FLA.
17. This means that Leo is family property as defined in the FLA, and the CRT does not have jurisdiction to make orders about which party owns him. For this reason, I must refuse to resolve Miss Maglio's claim for Leo's return under CRTA section 10(1).
18. Because I have refused to resolve Miss Maglio's claim, I direct CRT staff to refund her paid CRT fees.

ORDER

19. I refuse to resolve Miss Maglio's claims under CRTA section 10(1).

Alison Wake, Tribunal Member