



Civil Resolution Tribunal

Date Issued: June 25, 2024

File: SC-2023-009218

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hilton v. Big and Small Rescue Society*, 2024 BCCRT 597

BETWEEN:

STEPHANIE HILTON

APPLICANT

AND:

BIG AND SMALL RESCUE SOCIETY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. Stephanie Hilton fostered and then adopted a dog from Big and Small Rescue Society (society). Shortly after adoption, a veterinarian discovered that the dog had a femur head fracture and required surgery. Ms. Hilton paid \$3,357 for the surgery and related

expenses. She wants the society to reimburse her that amount. Ms. Hilton represents herself.

2. The society says it is not responsible for the surgery cost. A director represents the society.
3. As I explain below, I find the society was not responsible for the dog's veterinary expenses after the adoption, so I dismiss Ms. Hilton's claims.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has authority over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
5. 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. 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 in the interests of justice.
6. 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 court.

ISSUE

7. The issue in this dispute is to what extent, if any, the society is responsible for the dog's surgery and related expenses.

EVIDENCE AND ANALYSIS

8. As the applicant in this civil proceeding, Ms. Hilton must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
9. In early May 2023, Ms. Hilton took the dog into her home under a foster care agreement. On May 15, 2023, she attended a veterinary appointment to have the dog spayed and vaccinated. The society arranged and paid for that procedure. The vet noted that the dog had a left hind paw deformity and was limping, but there was no sign of pain.
10. On May 19, 2023, Ms. Hilton signed the adoption contract and paid the \$850 adoption fee. The contract said that after the adoption, Ms. Hilton was solely responsible for all veterinary costs except spaying or neutering costs.
11. On June 3, 2023, Ms. Hilton emailed the society expressing concern that the dog was not bearing weight on her back left leg. Ms. Hilton felt that the vet who examined the dog should have done an x-ray. She said she would take the dog to her family vet. The society urged her to make an appointment with one of their preferred vets, which it would pay for, and alternatively offered a full refund. On June 5, the society's preferred vet, Dr. Gurmeet Bhullar, took x-rays and discovered the femur head fracture. It is undisputed that the femur head fracture existed before the adoption.
12. The society was prepared to pay for the dog's surgery, despite the clear terms in the agreement. However, Ms. Hilton did not wish to use the society's preferred clinic, Atlas Animal Hospital.
13. On September 9, 2023, the society offered Ms. Hilton \$1,000 toward the surgery at a clinic of her choice, or a free surgery with Atlas. It said the offer was a final offer and was open until December 31, 2023. Ms. Hilton rejected the offer.

14. On October 5, 2023, Ms. Hilton chosen vet performed the dog's surgery. Ms. Hilton says in submissions that her total costs were \$3,833.37. This is more than what she claimed in the Dispute Notice, but given that I dismiss the claim, nothing turns on this.
15. Ms. Hilton does not clearly identify a legal basis for her claim. She says the society's offer to pay something for her dog's surgery means the society knew it was responsible for the surgery. However, there are many reasons a society may offer to contribute to vet expenses, including moral obligation and to protect its reputation. An offer to pay is not necessarily an admission of liability, and I find it was not here. I also find the society is not bound by its offer to pay \$1,000 given that it was time-limited and Ms. Hilton rejected it.
16. Ms. Hilton questions the professional qualifications of at least one vet at Atlas, but the society provided evidence that I find shows those concerns are unfounded. There is no evidence that Atlas would not have provided a professional surgery and adequate care for the dog.
17. I considered whether Ms. Hilton may have a claim in misrepresentation or breach of an implied warranty that the dog was healthy. A misrepresentation is a false statement of fact made during negotiations or in an advertisement that has the effect of inducing a reasonable person to enter into the contract. If the society misrepresented that the dog had no health issues, Ms. Hilton may be entitled to compensation for losses arising from that misrepresentation. However, because the society was prepared to pay for the necessary surgery with its preferred veterinarian in full, Ms. Hilton could have avoided the loss entirely. So, I find she cannot succeed in a misrepresentation or breach of warranty claim. Further, I find there was no false statement of fact as the dog appeared to be in good health, as confirmed by the May 15, 2023 veterinary exam. To the extent that Dr. Gurmeet Bhullar initially failed to diagnose the hip fracture, I find the society reasonably relied on the vet's professional opinion, so the society's representation was not negligent.
18. Ms. Hilton says a society director berated her by text in the days before she signed the adoption contract, and threatened to repossess the dog if she did not complete

the adoption quickly. This happened while she was camping with the dog in an RV. I find Ms. Hilton may be arguing that she signed the contract under duress. Duress exists where one party can prove that other exerted pressure to such a degree that they did not truly consent. While the society director's texts were unprofessional and aggressive, I find they did not create a situation of duress. The society gave Ms. Hilton 4 days to close the adoption and she chose to do so immediately instead of waiting. I find she had options. I find she is bound by the contract. As noted above, the contract was clear that Ms. Hilton was responsible for all veterinary costs after the adoption. So, I dismiss her claim.

19. Under CRTA section 49 and the CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. The society was successful but did not pay CRT fees. I dismiss Ms. Hilton's claim for CRT fees. I also dismiss her claims for credit card interest and vet bills incurred after she started the claim, which are not dispute-related expenses as they do not relate to the conduct of the CRT proceeding.

ORDER

20. I dismiss Ms. Hilton's claims and this dispute.

Micah Carmody, Tribunal Member