Civil Resolution Tribunal

Date Issued: July 8, 2025

File: SC-2024-004589

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kaur v. Franklin*, 2025 BCCRT 920

BETWEEN:

KAMALPREET KAUR

APPLICANT

AND:

SHARONA FRANKLIN

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a dog bite. Hyssop, a dog owned by the respondent, Sharona Franklin, bit the applicant, Kamalpreet Kaur, as she walked by the respondent's patio. The applicant claims $5,000 in compensation for medical bills, lost wages, and pain and suffering. The applicant represents herself.

2. The respondent says the applicant was improperly on the respondent's property when Hyssop bit her. The respondent says they are not responsible for the applicant's negligence. The respondent is represented by a legal advocate.

JURISDICTION AND PROCEDURE

3. 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.

4. The CRT conducts most hearings by written submissions, but has discretion to decide the hearing's format, including by telephone or videoconference. No party requested an oral hearing, and I find I am able to make a decision on the written record before me. So, I decided to hear this dispute through written submissions.

5. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

6. 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.

Anonymization

7. CRT staff advised me that the respondent requested the decision be anonymized. The respondent did not reiterate this request or provide any reasons for anonymization in their submissions.

8. The CRT's decisions generally identify the parties because these are considered open proceedings. This is done to provide transparency and integrity in the justice

system. The CRT only anonymizes decisions in certain limited situations, which can include situations that involve minors, persons with impaired capacity, or where sensitive medical issues are central to the parties' claims. The respondent has not provided any basis for their anonymization request. So, I decline the request.

ISSUES

9. The issues in this dispute are whether the respondent owes the applicant compensation for medical bills, lost wages, and pain and suffering.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant must prove her claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.

11. The parties are formerly residents of the same residential building. On March 24, 2024, the applicant was walking in front of the building, near the respondent's outdoor patio. While the applicant walked in front of the patio, the respondent's dog, Hyssop, bit her leg. The applicant went to hospital and received four stitches, and says she missed a week of work. She claims a total of $5,000 for her medical bills, lost wages, and for pain and suffering. The respondent denies owing the applicant any money, because they say the applicant was walking through the respondent's own yard.

12. In British Columbia, there are three ways for a pet owner to be held legally responsible for their pet's actions: occupier's liability, the legal concept of "scienter", and negligence.

13. Both occupier's liability and negligence impose a duty of care on a pet owner to ensure that their pets do not attack any people or animals. Section 3(1) of the *Occupiers Liability Act* says that an occupier of a premises owes a duty to ensure

that a person will be reasonably safe in using the premises. Here, the applicant alleges she was in a common area of the building's property. The respondent says the applicant was actually walking on the respondent's private yard space. Given the parties' descriptions of the accident and the diagrams in evidence, I am satisfied the applicant was walking along the inside portion of the partially constructed fence in front of the respondent's patio.

14. The applicant says she was walking in front of the building and did not see Hyssop outside. She says Hyssop was not leashed and suddenly attacked her. The respondent says Hyssop was on a short leash, tied inside the house, and had only gone to the yard space in front of the patio to relieve himself. The respondent says the applicant must have startled Hyssop, causing him to bite her to protect the respondent from an unknown intruder.

15. While the respondent alleges the applicant should not have been on their private property, there is nothing in the evidence that indicates the yard in front of the respondent's patio was only to be used by the respondent. Additionally, both parties say the yard, fence, and landscaping were unfinished and that it was very dark at that location. I accept that if the applicant was on the respondent's exclusive-use property, it was not obvious that she was.

16. I find the respondent likely meets the definition of an occupier under the *Occupiers Liability Act*. This means the respondent had a duty to take all reasonable care in the circumstances and protect the applicant from an objectively unreasonable risk of harm (see: *Agar v. Weber*, 2014 BCCA 297 at paragraph 30). The standard of care in occupiers' liability is reasonableness, not perfection.

17. The respondent submits they acted reasonably, by having Hyssop on a short leash into the yard. The respondent uses a wheelchair, and due to the unfinished nature of the patio and yard, says they cannot be outside with Hyssop while he relieves himself. In the circumstances, given the undisputedly unfinished fence, poor lighting, and the respondent's limited mobility, I find Hyssop's leash was too long for the circumstances. I find that by having Hyssop able to roam past the patio into the

unfinished, uncontained yard, it was reasonably foreseeable that Hyssop could pose a danger to other residents using the yard. So, I find the respondent was negligent in letting Hyssop into the yard without adequate supervision and lighting.

18. However, I also find the applicant was negligent. I say this because the respondent's undisputed evidence is that there was a lit walking path approximately 20 metres away, that would have kept the applicant away from the respondent's patio. Had the applicant followed the path, she would not have cut through the yard in front of the respondent's patio. The applicant provided no explanation about why she did not follow that path. I find the applicant was negligent when she decided to take a path into darkness behind the fence instead of staying on the lit sidewalk.

19. As I have found both parties were negligent, I must apportion liability by fault or blameworthiness. In the circumstances, I find the parties were equally negligent.

20. I turn then to the applicant's damages.

21. As noted, the applicant claims a total of $5,000 for medical bills, lost wages, and pain and suffering, without breaking the amount down by category.

22. For medical bills, she provided two hospital bills, each for $361. The first was March 24, 2024, for her initial emergency visit where they cleaned her wounds and provided stitches. The second was a week later, when she had the stitches removed. I find the respondent must pay the applicant half of her total medical bills, for a total of $361. I acknowledge the respondent questions whether the applicant actually needed to pay the invoices. The applicant says she does not qualify for medical coverage because she is a temporary resident in British Columbia. I find the fact that the health authority invoiced the applicant supports her position that she was not covered by MSP. So, I find the applicant is entitled to payment.

23. For lost wages, the applicant's evidence is limited. She says she worked in long-term care, and normally worked part-time, but was scheduled to work full-time that week. In her initial submissions, she said she earned $29.84 per hour. In later submissions, she said she earned $28.74 per hour. The applicant did not provide

any employment records, such as her regular schedule or pay stubs. She did provide a doctor's note that says she was entitled to take 5 paid days of sick leave. On balance, I find the applicant has not proved she suffered a loss of income as a result of her injuries. I dismiss this aspect of her claim.

24. Finally, while the applicant did not specifically word her claim as "pain and suffering", I find that is essentially want she is claiming. The applicant did not provide any substantive submissions about how the injuries impacted her life. Though she says she was "dependent for everything on someone", she does not explain what she could not do. While I accept the injury was painful and uncomfortable, there is simply no evidence about any restrictions on the applicant's activities, or the duration of her suffering. Without evidence proving otherwise, I find the medical evidence shows the applicant's injuries were relatively minor and that they were substantially healed after a week. I find nominal damages are appropriate here, and that $250 is a reasonable amount. Again, given I have found the applicant was 50% responsible, I reduce the pain and suffering award by that much. I find the respondent must pay the applicant $125 for pain and suffering.

Interest, Fees and Expenses

25. Applicants are generally entitled to pre-judgment interest under the *Court Order Interest Act* on monetary awards at the CRT. However, there is no indication the applicant has yet paid the hospital invoices. So, she has not proven entitlement to pre-judgment interest on the $361 award. Additionally, further to section 2 of the *Court Order Interest Act*, pre-judgment must not be awarded on non-pecuniary (pain and suffering) damages resulting from personal injury, or on costs (CRT fees and dispute-related expenses). So, the applicant is not entitled to pre-judgment interest on the $125 pain and suffering award, or on the reimbursement of her paid CRT fees, addressed below.

26. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As the applicant was partially successful, I find the respondent must reimburse her half of

her paid tribunal fees, for a total of $87.50. Neither party claimed dispute-related expenses.

ORDERS

27. Within 21 days of the date of this decision, I order the respondent to pay the applicant a total of $573.50, broken down as $486 in damages and $87.50 in tribunal fees.

28. The applicant is also entitled to post-judgment interest, as applicable.

29. The applicant's remaining claims are dismissed.

30. This is a validated decision and order. 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.

Andrea Ritchie, Vice Chair