

IN THE MATTER OF THE *PREVENTION OF CRUELTY TO ANIMALS ACT*,
R.S.B.C. 1996, c. 372
ON APPEAL FROM A REVIEW DECISION OF THE BC SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS CONCERNING THE SEIZURE OF
ONE DOG

BETWEEN:

ROMEO LEDUC

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

Pawan Joshi, Presiding Member

For the Appellants:

Toni Leduc

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

October 31, 2022

Location of Hearing:

Teleconference

A. Overview

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the “PCAA”) related to the seizure of one dog (“Rufus”) from the Appellant Romeo Leduc at his residence located in Armstrong, BC (the “Property”).
2. The Appellant is appealing the September 29, 2022, review decision issued under s. 20.2(4)(b) of the PCAA by Marcie Moriarty, Chief Prevention and Enforcement Officer, of the British Columbia Society for the Prevention of Cruelty to Animals (the “Society”).
3. Section 20.6 of the PCAA permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal with respect to animals, to require the Society to return the animals to their owner with or without conditions or to permit the Society, in its discretion to destroy, sell or otherwise dispose of the animals. Under the PCAA, appeals to BCFIRB are broad in nature, as set out in detail in *BC Society for the Prevention of Cruelty to Animals v. British Columbia Farm Industry Review Board, 2013 BCSC 2331* at paragraph (24):

Courts of law are focused on the law and legal principles. BCFIRB appeals are broader than that. There are no limits on the grounds of appeal. BCFIRB has been given broad evidentiary and remedial powers on appeal. While the legislature could have created an appeal or review “on the record”, it has not done so here. Instead, the legislature has gone the other way in these reforms. It has given BCFIRB extensive evidence-gathering powers, some of them to be used proactively. It has made the Society “party” to appeals, and it requires the Society to provide BCFIRB “every bylaw and document in relation to the matter under-appeal” (s. 20.3(4)), which will in many cases be much broader than the record relied on by the reviewing officer. Included in BCFIRB’s powers is s. 40 of the Administrative Tribunals Act: “The tribunal may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.
4. The Appellant in this case is seeking the return of Rufus.
5. On October 31, 2022, a BCFIRB hearing panel (the “Panel”) held a hearing via Teleconference. The hearing was recorded.
6. The Appellant was not represented by counsel. The Appellant’s sister Toni Leduc appeared on behalf of the Appellant, she testified and called two witnesses: B.J. and J.B.
7. The Society was represented by counsel and called two witnesses: Special Provincial Constable (SPC) Brenna Waldorf and Dr. Amy Roberts (DVM). The Panel accepted Dr. Roberts as an expert witness in veterinarian medicine.

B. Decision Summary

8. For reasons outlined below, the Panel orders that pursuant to section 20.6 of the PCAA that the Society is permitted in its discretion to destroy, sell or otherwise dispose of Rufus, with the obvious hope and expectation that Rufus will be adopted.
9. The Panel finds the Appellant liable to the Society for costs of care of Rufus, in the amount \$1,860.90 this being part of the veterinary costs incurred by the Society as well as part of the costs associated with the seizure, housing, care and feeding of Rufus.

C. Material Admitted on this Appeal

10. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-16 and is attached as Appendix A to this decision.

D. History Leading to Seizure of the Animal and the Day of Seizure

11. On September 12, 2022, the Society received a complaint from a veterinary hospital that had seen Rufus on September 7, 2022. The complainant stated that Rufus had been vomiting and that he was lethargic and not moving or responding appropriately. The complainant noted that Rufus presented with a painful abdomen. The complainant further related that the Appellant had refused to either hospitalize Rufus or to provide any outpatient care, which was recommended by the treating veterinarian, Dr. Amy Roberts. Rufus was eventually released to the Appellant on a "Against Veterinarian Medical Advice" basis.
12. On September 12, 2022, Special Provincial Constable, Brenna Waldorf ("SPC Waldorf") contacted the Appellant to confirm Rufus's condition. SPC Waldorf explained her concerns regarding a lack of veterinary care and advised that it was illegal to allow an animal to remain in distress. The Appellant denied that any further veterinary care was required for Rufus and hung up the phone.
13. On September 12, 2022, SPC Waldorf subsequently attended at the Property, as she had ongoing concerns for the health and well-being of Rufus. Upon arrival, the Appellant did not appear to be home. However, Rufus was outside and walked up to SPC Waldorf. She observed him to be walking with a wobble, and he appeared to be trembling and disoriented. Rufus was drooling excessively, was lethargic, and his abdomen and back end were extremely sensitive. Rufus tried to bite SPC Waldorf when she palpated the area of his back and abdomen. Based on her observations, SPC Waldorf made the determination that Rufus was in critical distress and removed him pursuant to section 14 of the PCAA. SPC Waldorf issued a Notice of Critical Distress and taped it to the Appellant's Property.

14. SPC Waldorf immediately took Rufus to a veterinarian hospital where he received lifesaving, emergency medical treatment. The treating veterinarian, Dr. Jennifer Watt, noted that Rufus was wobbly and weak on intake and was also non-visual. She conducted bloodwork and radiographs and determined that Rufus was suffering from Ivermectin toxicity and began treatment with intralipids. Rufus made a full recovery while he was hospitalized and was discharged on September 14, 2022.
15. On September 14, 2022, SPC Waldorf re-attended at the Property and met with the Appellant and his sister Ms. Leduc. SPC Waldorf provided the Appellant with a Notice of Disposition with respect to Rufus as he was being held in protective custody. SPC Waldorf informed the Appellant that there could be further action taken under the *PCAA* or the Criminal Code of Canada as Rufus was in critical distress at the time of seizure and had nearly died. The notice advised the Appellant of his right to appeal this decision (Notice of Disposition) to Ms. Moriarty. The Appellant provided his notice of dispute to Ms. Moriarty shortly thereafter.

E. Review Decision

16. On September 29, 2022, Ms. Moriarty issued her review decision in which she outlined her reasons for not returning Rufus to the Appellant (the “Review Decision”). Ms. Moriarty reviewed the Inspection Follow-up Details (IFD), Photographs of the Notice of Critical Distress and Notice of Disposition (NOD), Rufus Veterinary Records – September 12 & 14 2022, Rufus Veterinary Invoice – September 14, 2022, BC SPCA Physical Intake Exam – September 14, 2022 and Various email submissions from the Appellant and letters sent on behalf of the Appellant. Ms. Moriarty was satisfied, based on the evidence, that SPC Waldorf reasonably formed the opinion that Rufus was in critical distress, and that the action to take custody of Rufus to relieve him of distress was appropriate.
17. In finding Rufus should not be returned to the Appellant, Ms. Moriarty concluded as follows:

Ultimately, I need to be confident that if Rufus were to be returned that he would remain free from distress. I am not confident that should he be returned to you, that you would be able to deliver him timely and consistent veterinary care. In fact, your home remedy of giving Rufus the Ivermectin, caused his condition to further decline to the point of visual blindness upon entering veterinary care. You have not been willing to mobilize on the concerns relayed to you and disagree that any codified laws apply to you. You have not provided any submissions that show that you understand the need for veterinary care for Rufus, and I find it unlikely that you would provide this care in the future or work with the BC SPCA in a respectful manner. After considering the above, I do not believe that it would be in the best interest of Rufus to be returned to you.
18. The Appellant filed his appeal with BCFIRB on October 3, 2022.

F. Key Facts and Evidence

19. In an appeal under the *PCAA*, the Panel must determine whether the animal that is the subject of the appeal was in distress when it was seized and whether it should be returned to the Appellant. Below is a summary of the relevant and material facts and evidence based on the parties' written submissions and evidence presented during the hearing. Although the Panel has fully considered all the facts and evidence in this appeal, the Panel refers only to the facts and evidence it considers necessary to explain its reasoning in this decision.

Toni Leduc

20. Ms. Leduc is the Appellant's sister and testified on behalf of the Appellant. Ms. Leduc used to take care of Rufus when the Appellant was away for work.
21. Ms. Leduc stated that prior to the seizure, Rufus may have had a bowel obstruction from eating grapes off the large grape vines that they had on their Property. Ms. Leduc had also noticed that Rufus had been chewing on planters, heavy plastic items and clothes. Ms. Leduc asked the Appellant to take Rufus for an X-ray to rule out any obstructions in his bowels. The Appellant agreed and took Rufus to the veterinary hospital.
22. Ms. Leduc stated that when Rufus came home from the veterinary hospital, he rested for three or four days in accordance with his natural healing process. After having rested for three or four days Rufus regained his strength and his appetite.
23. Ms. Leduc also noticed at this time that Rufus was walking as if he was drunk. Ms. Leduc was of the view that the grapes that Rufus had previously eaten had fermented in his stomach and had caused his drunken behaviour. Ms. Leduc gave Rufus a small dose of Ivermectin, because she was concerned that Rufus might have eaten something from the garbage. Ms. Leduc stated that Ivermectin is good for dogs to keep parasites out of the dog's body. Ms. Leduc stated that she gave Ivermectin to Rufus for the first time on the morning of September 11, 2022.
24. On September 12, 2022, when SPC Waldorf and a police officer showed up at the Property, Ms. Leduc tried to tell them that Rufus had eaten a lot of grapes and that that he was suffering from alcohol poisoning due to the grapes having fermented in his stomach. The alcohol poisoning was affecting his ability to walk and was causing him to have a sore abdomen.
25. Ms. Leduc testified that SPC Waldorf jumped to the conclusion that she had given too much Ivermectin to Rufus, when in fact she had only given him one dose. Ms. Leduc did not believe that Rufus was suffering from an overdose of Ivermectin because he continued to have a strong appetite.

26. Ms. Leduc testified that Rufus was not dying or poisoned at the time of the seizure. She noted that Rufus had eaten three large bowls of high-quality dog food just prior to the seizure and that he continued to gain weight quickly after he was released from the veterinary hospital on September 14, 2022.
27. Ms. Leduc acknowledged that Rufus had been seen by a veterinarian before he was purchased by the Appellant and that after that appointment Rufus had not been seen by a veterinarian until September 7, 2022. Ms. Leduc's understanding was that Rufus had been neutered before he came into the Appellant's care.
28. Ms. Leduc stated that the best vaccine for a dog is ensuring that a dog has a healthy diet and exercise. Ms. Leduc stated that she does not believe in chemical interventions to the body and that it is best to let the body heal naturally. Ms. Leduc stated that they had no plans to take Rufus to a veterinarian prior to the seizure because she was of the view that Rufus would have healed naturally. Ms. Leduc noted that she had read research articles on natural healing but that she did not have any formal education in natural science or in animal science.
29. Ms. Leduc alleged that Dr. Roberts must have back dated her clinical notes, because Ms. Leduc did not administer Ivermectin to Rufus before September 11, 2022. Ms. Leduc further noted her belief that there are very few good veterinarians.
30. With respect to the Appellant's obligation to ensure that Rufus was not in distress, Ms. Leduc stated that Canada is a corporation and that Canadian laws only apply to employees of that corporation. She stated that the *PCAA* does not apply to the Appellant or to Ms. Leduc because they are not part of the corporation.

J.B.

31. J.B. is the Appellant's neighbour. J.B. noticed that around September 12, 2022, Rufus was stumbling and otherwise walking like he was intoxicated. J.B. thought that Rufus' behaviour could be due to having ingested grapes.
32. J.B. did not notice anything wrong in the way the Appellant and Ms. Leduc treated Rufus. J.B. understood that Rufus had become sick because he had ingested grapes, but that Rufus' health was otherwise fine. J.B. saw Rufus on almost a daily basis and would often play with him.
33. J.B. stated that he was aware of the Appellant administering Ivermectin to Rufus, but J.B. could not confirm the timing.

B.J.

34. B.J. testified that she has been a livestock farmer for 35 years and that she has a lot of experience with different types of animals. She noted that she has been dealing with veterinarians for the time that she has been a livestock farmer and that she is currently operating a barn farm operation covering 55,000 square feet.
35. Ms. Leduc requested that the Panel accept B.J. as an expert in the field of veterinarian medicine and for B.J. to give her opinion evidence on the clinical records of the veterinarians who examined and treated Rufus.
36. B.J. testified that she does not hold a degree or any other formal certification in veterinarian medicine, but that she has extensive knowledge of surgery, medication, treatment, and vaccination protocols for animals arising from her farming experience.
37. After hearing the evidence on B.J.'s qualifications, the Panel determined that B.J. did not meet the criteria to be qualified as an expert in the field of veterinary medicine. B.J. was advised that the Panel would only consider and give weight to her fact-based evidence. Unfortunately, much of B.J.'s subsequent testimony was opinion evidence upon which the Panel has not relied in this decision.
38. B.J. noted that Rufus was showing signs of recovery when he started eating food and that the medications administered by the veterinarians at the time when he was admitted after the seizure may not have been necessary.
39. B.J. stated that in her experience animals often vomit when they are transported from one place to another place in a vehicle.

The Society's Evidence:

SPC Brenna Waldorf

40. SPC Waldorf attended at the Property on September 12, 2022 along with an RCMP Officer. SPC Waldorf had requested the presence of the RCMP due to her concerns arising from her initial discussion with the Appellant earlier that day in which the Appellant was clearly agitated and unwilling to acknowledge the Society's statutory authority with respect to animals in the province. However, at the time that SPC Waldorf attended at the Property, the Appellant was not in attendance.
41. While attending at the Property, SPC Waldorf noticed that Rufus was disoriented, drooling, tremoring, extremely lethargic and walking as though he was intoxicated. Rufus was extremely sensitive under his stomach when SPC Waldorf attempted to palpate the area. Based on all these observations, SPC Waldorf determined that Rufus was in critical distress and needed immediate care from a veterinarian.

42. After a brief discussion with Ms. Leduc, it was clear to SPC Waldorf that the Appellant would not take Rufus to a veterinarian. SPC Waldorf issued a seizure notice due to Rufus being in critical distress and took him to a veterinarian in Kelowna. However due to staffing issues at that clinic she then had to move Rufus to a different veterinary hospital, the Fairfield Animal Hospital ("Fairfield"), in Kelowna.
43. Rufus remained admitted at Fairfield from September 12, 2022 to September 14, 2022. When SPC Waldorf took Rufus to Fairfield on September 12, 2022, Rufus was almost blind. At Fairfield Rufus was treated for Ivermectin toxicity. The veterinarian technician at the hospital advised SPC Waldorf if she would not have brought Rufus to the hospital on September 12, 2022, then there was a possibility that Rufus could have died.
44. SPC Waldorf stated that she does not support the return of Rufus to the Appellant because the Appellant's statements and actions demonstrate that he does not believe in veterinarian care and will not provide such care in the future.

Dr. Amy Roberts (DVM)

45. Dr. Roberts is a veterinarian registered with the College of Veterinarians of British Columbia. Dr. Roberts graduated from the Atlantic Veterinary College, acquiring a degree in Doctor of Veterinary Medicine (DVM) in 2014. Dr. Roberts has practiced general and emergency veterinary medicine and surgery since her graduation. Dr. Roberts has been an associate veterinarian practicing at Central Animal Hospital ("Central"), Vernon, since 2018. Dr. Roberts was qualified by the Panel as an expert witness in veterinary medicine.
46. Dr. Roberts examined Rufus on September 7, 2022 when he was brought to Central by the Appellant. On September 7, 2022, Rufus was tested for parvovirus before entering the hospital building. Dr. Roberts' assistant asked the Appellant if it would be possible to perform the test in the Appellant's vehicle to reduce the risk of disease transmission. The Appellant consented to this test. Dr. Roberts' assistant became concerned when she first saw Rufus in the Appellant's vehicle, she noted that Rufus was looking extremely lethargic and that he didn't even lift his head when a stranger opened the car door.
47. During the examination Dr. Roberts noted that Rufus was depressed and dull. Rufus was inactive during the exam, unable to walk without assistance and showed little to no interest in his surroundings. Dr. Roberts was concerned with these findings, particularly pertaining to a young puppy. The findings were indicative of an abnormal neurologic status.
48. Dr. Roberts observed that Rufus' oral cavity contained excessive saliva which could have been due to gastrointestinal disease, seizures, oral pain, nerve disorder, oral trauma, toxins, hepatic encephalopathy or salivary glands disease,

all of which can cause discomfort and pain. Rufus had an increased respiratory rate and slower than normal heart rate. Rufus displayed signs of pain on abdominal palpation and attempted to bite repeatedly when Dr. Roberts touched his stomach for examination. Rufus' pupils were dilated, and pupillary light reflexes were abnormal in both eyes. These findings were consistent with blindness.

49. Dr. Roberts conducted X-rays on Rufus. As per the radiographs, it revealed aerophagia within gastric lumen. Dr. Roberts stated that foreign material within the stomach can cause pain, nausea, diarrhea, electrolyte losses, anorexia and obstruction if unable to pass through the stomach or intestinal tract.
50. Dr. Roberts' findings were suggestive of an inappropriate neurological status which raised concerns that Rufus might have ingested a toxic substance or might be experiencing epileptic seizures. Rufus also had evidence of foreign material ingestion. Rufus needed fluid therapy, supportive care and ongoing monitoring of his neurologic status.
51. Dr. Roberts prepared a treatment plan for Rufus, which included hospitalization, supportive care, monitoring, repeat radiographs to monitor for intestinal obstruction and bloodwork. This treatment plan was provided to the Appellant.
52. The Appellant declined hospitalization and further diagnostics. Dr. Roberts provided a second treatment option, to treat Rufus as an outpatient. This plan included treating with subcutaneous fluids, anti-nausea medication and antacid medication and was considered by Dr. Roberts to be a less effective treatment option however the Appellant also declined the second treatment plan.
53. The Appellant informed Dr. Roberts that his sister had a wealth of knowledge regarding holistic treatments. The Appellant further stated that he had Ivermectin at home. Dr. Roberts informed the Appellant that Ivermectin is used as a dewormer in dogs and is not an appropriate treatment for Rufus, as per his current state of health. The Appellant advised Dr. Roberts that Ivermectin would do more than deworm and that he was currently using it as a treatment for Rufus. The Appellant also mentioned it would be best to let Rufus heal naturally rather than intervene in that process.
54. Dr. Roberts informed the Appellant that she would have him sign an "Against Medical Advice" release form as she was very worried about Rufus' health.
55. Dr. Roberts believed Rufus' history and clinical signs were strongly consistent with Ivermectin toxicity. Patients experiencing Ivermectin toxicity must be monitored carefully as comas can occur. Patients with blindness and/or ataxia should be confined to prevent accidental injury. Patients surviving the initial 24-48 hours generally have a good chance of recovery if provided with appropriate nursing care until all signs resolve. Full recovery from Ivermectin toxicity may take several weeks.

56. Dr. Roberts stated that in her opinion Rufus was in critical distress at the time of seizure and required immediate treatment. She noted that the Appellant's disregard of her advice regarding Ivermectin was problematic and indicated that the Appellant might have overdosed Rufus in his attempts to care for the dog.

G. Analysis and Decision

57. As outlined at the outset of this hearing, the Panel is tasked with addressing two primary issues:

1. Was Rufus in distress at the time of seizure?
2. Is it in the best interests of Rufus for the Society to return him to the Appellant's care?

58. Part 2.1 of the PCAA establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:

- 9.1** (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.
(2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

- 11** If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal
- (a) does not promptly take steps that will relieve its distress, or
 - (b) cannot be found immediately and informed of the animal's distress, the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

59. The definition of "distress" provides:

- 1** (2) For the purposes of this Act, an animal is in distress if it is
- (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
 - (a.1) kept in conditions that are unsanitary,
 - (a.2) not protected from excessive heat or cold,
 - (b) injured, sick, in pain or suffering, or
 - (c) abused or neglected.

60. The definition of "critical distress" appears in both sections (12) and (14) of the PCAA. With respect to the seizure of an animal that is in critical distress, section (14) reads as follows:

- (14)(1) In this section, "critical distress" means distress in an animal of such a nature that:
- (a) immediate veterinary treatment cannot prolong the animal's life,
 - (b) prolonging the animal's life would result in the animal suffering unduly, or

(c) immediate veterinary intervention is necessary to prevent the imminent death of the animal. (Emphasis added)

(2) An authorized agent who believes on reasonable grounds that there is an animal in critical distress in any premises, other than a dwelling house, or in any vehicle, aircraft or vessel, may enter the premises, vehicle, aircraft or vessel without a warrant for the purpose of taking any action authorized by this Act to relieve that critical distress.

61. We have also proceeded on the basis that the Appellant has an onus to show, that the remedy they seek (return of Rufus) is justified. The first issue to consider is whether Rufus was in distress at the time of seizure. Depending on the answer to that question, the next issue is to decide whether to return Rufus or whether doing so would return Rufus to a situation of distress.

Distress

62. The Panel has first considered whether Rufus was in distress at the time of seizure. In this case, Rufus was seized by SPC Waldorf under section (14) of the *PCAA* on the basis that he was in critical distress and required immediate medical treatment. In instances of critical distress, the attending officer is not required to obtain a warrant prior to seizing the animal. SPC Waldorf subsequently returned to the Property with a notice of disposition under section (11) of the *PCAA* and informed the Appellant that Rufus would not be returned to his care.
63. In coming to a decision as to whether Rufus was in distress at the time of the seizure, the Panel is guided by the following passage from *McIntosh v BCSPCA* November 12, 2021 where at paragraph (104) that Panel held:
- ...the definition of distress is broad, and the Society does not have to establish an actual deprivation or harm to animals before determining the animals are in distress. A medical finding that animals are injured or in pain is not required to conclude the animals are in distress. The definition of distress is intended to be protective and preventative. It does not require proof of actual harm; rather, it describes those circumstances that create a significant risk of harm to animals and should be avoided. When these circumstances are not avoided and conditions place animals at sufficient risk, the Act provides they can be protected.
64. Not every animal need be in distress for a seizure to be valid. The Panel in *Foulds v. BCSPCA*, December 9, 2020 held at paragraph (209), "*It is important to note that it is not necessary to find every animal to be in immediate physical distress to justify seizure*"

65. The Tribunal in Foulds quoted from *Simans v BCSPCA* (Dec 2, 2016):
- [180] In approaching this question, I note that “distress” in s. 1(2) of the PCAA is a specialized term. It does not require the Society to make a finding of pain and suffering as a precondition to removing an animal. While pain and suffering were present here for many of the animals, that is not necessary for the definition of “distress” to be met. Rather, in accord with the purposes of this protective statute, the definition extends beyond that. The first three criteria listed in s. 1(2) – any one of which is sufficient to satisfy the definition – also constitute “distress”, and make clear that the Society is not required to find “pain” and “suffering” before it may move to protect an animal. Those factors reflect serious risk factors that would foreseeably give rise to suffering and harm if protective action is not taken. While they must not be trivialized in their application, they also do not require the Society to wait until the worst happens.
66. Dr. Roberts’ evidence and the Appellant’s own conduct clearly show that Rufus was in distress at the time that the Appellant attended at Central on September 7, 2022. At that time, Dr. Roberts provided the Appellant with a comprehensive treatment plan for Rufus and an alternative, out-patient, treatment plan. The Appellant refused both treatment options and informed the Dr. Roberts that he had been treating Rufus with Ivermectin and indicated that he would continue to treat Rufus with Ivermectin and otherwise rely on nature to take its course.
67. Dr. Roberts was concerned enough that she contacted the Society with respect to Rufus’ care. SPC Waldorf’s evidence of Rufus’ demeanor when she attended at the Property on September 12, 2022 entirely accords with Dr. Roberts’ evidence and her concerns regarding Ivermectin poisoning. The medical evidence clearly shows that Rufus may have suffered serious health consequences or death if he had not been immediately brought to the veterinary hospital for care.
68. The Appellant did not attend at this hearing to provide any evidence, however Ms. Leduc notes that Rufus recovered quite quickly and that he had maintained a healthy appetite. She also made some unfounded allegations with respect to Dr. Roberts’ ‘back dating’ records.
69. The Appellant’s submitted materials and Ms. Leduc’s submissions at the hearing predominantly focus on challenging the legitimacy of recognized veterinary medicine. Their evidence does not explain the severity of Rufus’ medical condition at the time of seizure, nor have they presented any evidence of the meaningful steps that they took to alleviate that condition.
70. The Panel is satisfied that Rufus was in critical distress at the time that he was seized and as a result Rufus’ seizure by the Society was necessary and appropriate in the circumstances.

Return of the Animal

71. The courts have considered the legislative framework provided by the *PCAA*. In *Eliason v SPCA, 2004 BCSC 1773* Mr. Justice Groberman (as he then was) stated:

The scheme of the Act clearly is designed to allow the Society to take steps to prevent suffering of animals, and also to allow owners of animals to retrieve them, or have the animals returned to them, if they are able to satisfy the Society that the animals will be taken care of.

72. In *Brown v BCSPCA, [1999] B.C.J. No. 1464 (S.C.)* the court explained:

The goal and purpose of the act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as the Plaintiff's counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in the distress in the first place, the court must be satisfied that if the animal is returned to its owner, it will remain [in] the good condition in which it was released into its owner's care.

73. As note above, the *PCAA* (part 2.1) also establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:

9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

(2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

74. The Appellant seeks Rufus' return. For this Panel to return Rufus to the care of the Appellant, the Panel must be satisfied that the Appellant will not cause any situation that is likely to put Rufus back into distress and that Rufus will remain in good condition while he is in the Appellant's care.

75. The Appellant initially recognized that Rufus was in distress and took him to seek veterinarian attention on September 7, 2022. At every point after that initial appointment the Appellant has ignored the medical advice that he has received from professionals and has refused to acknowledge the harm that he compounded by continuing to treat Rufus with Ivermectin. The evidence demonstrates that the Appellant's conduct clearly harmed Rufus and could have resulted in his death.

76. The Appellant and Ms. Leduc have focused their efforts in this appeal on questioning Canadian laws, the veterinary medical system and the credibility of doctors. Ms. Leduc accused Dr. Roberts of lying and back dating her clinical records, a very serious allegation, but one that was made by Ms. Leduc casually and without any evidence.

77. Dr. Roberts stated that she was ninety-nine percent sure that Rufus was suffering from Ivermectin toxicity. This opinion was supported by the clinical records and report of Dr. Jennifer Watts who examined Rufus at the time of the seizure. The Appellant and Ms. Leduc have continually refused to accept the findings and recommendations of Dr. Roberts and Dr. Watts and instead suggested that Rufus' condition may have arisen from the fermentation of grapes in his stomach.
78. This Panel is not satisfied that the Appellant will address Rufus' medical needs in the future. In fact, the evidence in this appeal has shown that the interventions by the Appellant if such a situation arises may well add to rather than reduce the distress experienced by Rufus. All animals need medical attention at some point during the course of their lives. While Rufus is currently a young, healthy dog, the Panel would need to be confident in returning Rufus to the Appellant's care that he had the capacity and the humility to seek out assistance from legitimate professionals as circumstances required. The Appellant has unfortunately demonstrated the opposite both in his mistreatment of Rufus before the seizure and in his inability to recognize any responsibility for Rufus' distress since that time.
79. The Appellant has failed to establish that Rufus can be safely returned to his care without falling back into a situation of distress, and the Panel therefore finds that Rufus should remain in the care of the Society.

H. Costs

80. Section 20 of the *PCAA* states:

20 (1) The owner of an animal taken into custody or destroyed under this Act is liable to the society for the reasonable costs incurred by the society under this Act with respect to the animal.

(2) The society may require the owner to pay all or part of the costs, with or without conditions, for which he or she is liable under subsection (1) before returning the animal.

(3) Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

(4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

(5) Payment of costs under subsection (2) of this section does not prevent an appeal under section 20.3.

81. Section 20.6(c) of the *PCAA* provides that on hearing an appeal the board may "confirm or vary the amount of costs for which the owner is liable under section 20 (1) or that the owner must pay under section 20 (2)".

82. The Society is seeking costs as follows:

(a) Veterinary costs:	\$1,739.99
(b) SPCA time to attend seizure:	\$109.56
(c) Housing, feeding and caring for the Animal:	<u>\$17.35</u>
(d) Total:	\$1,866.90

83. On the matter of costs, the Appellant briefly mentioned in the written submissions dated October 28, 2022 that he did not consent to costs and all the costs be dismissed. Ms. Leduc did not make any oral submissions on the costs. However, the Society's submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of the Animal. The calculation of these estimates has been reviewed and supported in previous appeals.

XI. Order

84. The Panel orders that pursuant to section 20.6 of the PCAA that the Society is permitted in its discretion to destroy, sell or otherwise dispose of Rufus, with the obvious hope and expectation that Rufus will be adopted.

85. The Panel finds the Appellant is liable to the Society for costs of care of Rufus, in the amount of **\$1,866.90**, this being part of the veterinary costs incurred by the Society as well as part of the costs associated with the seizure, housing, care and feeding of Rufus.

Dated at Victoria, British Columbia this 15 day of November 2022.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Pawan Joshi, Presiding Member

Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit #1	September 29, 2022	BCSPCA	Leduc Decision Letter - September 29, 2022
Exhibit #2	October 3, 2022	Appellant	Leduc NOA - October 3, 2022
Exhibit #3	October 4, 2022	BCFIRB	04 Oct 2022 Leduc v BCSPCA P2213 - NOA Process letter
Exhibit #4	October 12, 2022	BCSPCA	LT all Encl Doc Disclosure
Exhibit #5	October 12, 2022	BCSPCA	BCSPCA Document Disclosure Tabs 1-36
Exhibit #6	October 18, 2022	BCSPCA	Rufus-91388- Dr. Watt Report
Exhibit #7	October 18, 2022	BCSPCA	SPCA report Rufus - Dr. Roberts Report
Exhibit #8	October 20, 2022	Appellant	Sent for hearing October 20, 2022 pdf
Exhibit #9	October 20, 2022	Appellant	R Leduc letter of intent pdf
Exhibit #10	October 20, 2022	Appellant	Appellant Witness Contacts
Exhibit #11	October 25, 2022	BCSPCA	Leduc v BCSPCA – Email Stating Witnesses
Exhibit #12	October 25, 2022	BCSPCA	BC SPCA Submissions
Exhibit #13	October 25, 2022	BCSPCA	Affidavit 1 of M. Moriarty
Exhibit #14	October 25, 2022	BCSPCA	Updated BCSPCA Document Disclosure Tabs 1-31
Exhibit #15	October 25, 2022	BCSPCA	Leduc – Notice of Dispute
Exhibit #16	October 28, 2022	Appellant	Appellant Final Submission