



BC Farm Industry Review Board

January 7, 2022

File: P2201

DELIVERED BY EMAIL

Andrea Orlaw
[REDACTED]

Marcie Moriarty
Chief Prevention and Enforcement Officer
BC SPCA
1245 East 7th Avenue
Vancouver, BC V5T 1R1

RE: ORLAW VS. BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (BCSPCA)

Under the *Prevention of Cruelty to Animals Act (PCAA)*, a person aggrieved by a seizure decision of the BC SPCA may appeal to the BC Farm Industry Review Board (BCFIRB).

Section 20.3(2)(b) of the *PCAA* requires appeals from BC SPCA review decisions such as the above captioned December 29, 2021 decision to be filed within four days of receiving the reasons for decision. In the interest of timeliness in addressing animal welfare issues, there is no provision under the *PCAA* for BCFIRB to extend the time for filing appeals.

Relevant Chronology

The BC SPCA issued its review decision on December 29, 2021 and they have confirmed it was sent to Ms. Orlaw's email address at 3:33 pm. In that decision, the BC SPCA advised Ms. Orlaw of her right to appeal to BCFIRB and noted that "the appeal is time sensitive" and due "within four calendar days from receipt of this decision, with a deadline of 4:30pm on the last day" and provided BCFIRB telephone and email contact information.

Assuming the decision was received on December 29, 2021, four calendar days starting on December 30, 2021 is Sunday January 2, 2022. Given that BCFIRB's office is not open on Sunday and that Monday January 3, 2022 was a statutory holiday, Tuesday January 4, 2022 at 4:30pm was the deadline for Ms. Orlaw to file an appeal with BCFIRB.

BCFIRB received the following emails from Ms. Orlaw on January 6, 2022:

From: Andrea Orlaw <[REDACTED]>
Sent: January 6, 2022 3:44 PM

Web:

Email: firb@gov.bc.ca

Website: www.gov.bc.ca/BCFarmIndustryReviewBoard

Phone:

Info: 250 356-8945

Fax: 250 356-5131

Mail:

PO Box 9129 Stn Prov Govt
Victoria BC V8W 9B5

Location:

2975 Jutland Rd
Victoria, BC V8T 5J9

To: FIRB AFF:EX <FIRB@gov.bc.ca>
Subject: Willow

Hello,

My name is Andrea Orlaw my dog willow was referred to the SPCA and I was looking to request a review. Please take consider that I have had issues being able to use the internet and am snowed in. I live in Powell River and was only able to get a working phone recently and switching providers has left me with many issues. I love my dog more than anything and I need her back please take mercy on me.

Thank you for your time
Andrea Orlaw

From: Andrea Orlaw <[REDACTED]>
Sent: January 6, 2022 3:48 PM
To: FIRB AFF:EX <FIRB@gov.bc.ca>
Subject: Willow

I'm sorry all this was done over Christmas time and I was passed around to three officers some without informing me at all. This has been an up hill battle. Getting the vet records on time during Christmas as well. Please understand my difficult situation. I still have her Christmas gifts waiting for her. Please help me.

Andrea Orlaw

In response to these emails, BCFIRB staff sent the following reply:

Good afternoon,

Thank you for your email. Unfortunately your appeal does not fall within the timelines set by legislation for filing an appeal with the BC Farm Industry Review Board (BCFIRB).

The BCSPCA Review Decision was issued to you on Wednesday, December 29, 2021. The letter advises those who would like to appeal, to contact BCFIRB to file an appeal no later than four (4) calendar days after receipt of the appeal. Because day four (4) was a Sunday, followed by a statutory holiday on the Monday, your due date for filing your appeal was no later than **4:30pm on Tuesday January 4, 2022.**

As such, the appeal has been filed outside of the legislative time frame and BCFIRB has no discretion to extend the timeframe for filing the appeal.

Kind regards,

Sara Thiesson | A/Case Manager
[BC Farm Industry Review Board \(BCFIRB\)](#)

BCFIRB received the following response from Ms. Orlaw:

From: Andrea Orlaw <[REDACTED]>
Sent: January 6, 2022 5:31 PM
To: Thiesson, Sara AFF:EX <[REDACTED]>
Subject: Re: FW: Willow

Please there has to be something you can do I'm desperate and she's my emotional support dog. This process has been unfair and I beg you

From: Andrea Orlaw [REDACTED]
Sent: January 6, 2022 5:33 PM
To: Thiesson, Sara AFF:EX [REDACTED]
Subject: Re: Automatic reply: FW: Willow

There was no way for me to get the internet and I have proof and I managed to get a new phone and it didn't work and I have documented proof of that. Please I had no way of responding to this in time.

In light of Ms. Orlaw's emails advising that she had difficulties accessing the internet, BCFIRB staff followed up on January 7, 2022 with a phone call to the BCSPCA to confirm when the review decision was received.

The BCSPCA confirmed with BCFIRB staff that after the review decision was issued on December 29, 2021, they received three emails from Ms. Orlaw in response to the decision on December 30 and 31, 2021 and January 3, 2022 which indicate her intention to appeal the decision. I have reviewed those emails.

Decision

BCFIRB has no discretion to extend the time for filing an appeal from a review decision. However, in circumstances where it can be established that the review decision was not properly received until sometime after the date it was sent, the time to start counting the four days would start on the day after actual receipt: see *Jones v. BCSPCA* (BCFIRB, April 18, 2017), *Ridland v. BCSPCA*. (BCFIRB, April 26, 2017).

In this case, Ms. Orlaw responded to the decision emailed by BCSPCA staff on December 30, 2021 which confirms not only that she received the decision but her intention to appeal the decision. Even if BCFIRB were to accept December 30, 2021 as the date of receipt, Monday January 3, 2022 would have been the fourth calendar day, and Tuesday January 4, 2022 by 4:30pm would have still been the deadline for her notice of appeal. Further, the fact that Ms. Orlaw was able to communicate to the BCSPCA on December 30, 31 and January 3 confirms that she had access to the internet and could have filed her appeal in time with BCFIRB within the statutory time period.

As the notice of appeal was received after January 4, 2022, the appeal has been filed out of time and BCFIRB has no discretion to extend the time for filing the appeal.

Yours truly,



Kirsten Pedersen
Executive Director/Registrar