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## BC Farm Industry Review Board

June 6, 2022

File: P2207

### DELIVERED BY EMAIL

Nicolai Pedersen  
[REDACTED]

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

### RE: PEDERSEN 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 BCSPCA may appeal to the BC Farm Industry Review Board (BCFIRB).

Section 20.3(2)(b) of the *PCAA* requires appeals from BCSPCA review decisions such as the above captioned May 27, 2022 decision to be filed within four calendar 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 BCSPCA issued its review decision on May 27, 2022, and they have confirmed it was sent to Mr. Pedersen's email address at 2:21 pm. In that decision, the BCSPCA advised Mr. Pedersen of his 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 May 27, 2022, four calendar days starting on May 28, 2022, would mean that Tuesday, May 31, 2022, at 4:30pm was the deadline for Mr. Pedersen to file an appeal with BCFIRB.

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**Web:**

Email: [firb@gov.bc.ca](mailto:firb@gov.bc.ca)

Website: [www.gov.bc.ca/BCFarmIndustryReviewBoard](http://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

BCFIRB received the following email from Mr. Pedersen on June 2, 2022 containing the notice of appeal attached:

From: Nic Pedersen [REDACTED]  
Sent: June 2, 2022 2:20 PM  
To: FIRB AFF:EX <[FIRB@gov.bc.ca](mailto:FIRB@gov.bc.ca)>  
Subject: Notice of appeal of SPCA decision  
Importance: High

Please see attached document package, filing fee is being sent by courier.

In response to this email, BCFIRB staff sent the following reply:

Good afternoon Mr. Pedersen,

Further to your email below, unfortunately BCFIRB cannot receive your Notice of Appeal regarding the BCSPCA No Return Decision Issued to you May 27th, 2022.

As noted in your Notice of Appeal, an appeal filed under the PCAA must be received by BCFIRB no later than 4 calendar days after receipt of the No Return Decision. BCFIRB does not have the capacity to extend those timelines. The BCSPCA Decision was issued to you May 27th. We would begin calculating 4 calendar days beginning the following day of May 28, 29, 30 and the 4th day would have been May 31st by 4:30 pm.

You filed your appeal on June 2, 2022. This is outside the 4 day timeline therefore your appeal is considered being filed out of time.

Kind Regards,

**Sara Thiesson** | A/Case Manager  
[BC Farm Industry Review Board \(BCFIRB\)](#)  
Email: [Sara.Thiesson@gov.bc.ca](mailto:Sara.Thiesson@gov.bc.ca)  
Phone: 236.478.2781

BCFIRB received the following two responses from Mr. Pedersen:

From: [REDACTED]  
Sent: June 2, 2022 3:41 PM  
To: Thiesson, Sara AFF:EX <[Sara.Thiesson@gov.bc.ca](mailto:Sara.Thiesson@gov.bc.ca)>  
Subject: Re: FW: Notice of appeal of SPCA decision

I didn't find it in my email until yesterday. Also it was sent late on a Friday and you are closed weekends. I can't loose my cats. I am not able to sleep without them close by.

From: [REDACTED]  
Sent: June 2, 2022 3:54 PM  
To: Thiesson, Sara AFF:EX <[Sara.Thiesson@gov.bc.ca](mailto:Sara.Thiesson@gov.bc.ca)>  
Subject: Re: FW: Notice of appeal of SPCA decision  
Importance: High

I entered the date that the decision was made, I didn't find it in my email until June 1st. I had been working at a job site until then with no internet or cell services.

In light of Mr. Pedersen's emails advising that he had difficulties accessing the internet, BCFIRB staff followed up on June 3, 2022 with a phone call to the BCSPCA to confirm when the review decision was received.

The BCSPCA confirmed with BCFIRB staff that prior to the review decision being issued, on May 24, 2022, Mr. Pedersen, via email, requested a submission deadline extension which was granted to May 26, 2022. The Society confirmed that they did not receive any submissions and a decision was emailed to Mr. Pedersen on May 27, 2022, at 2:21pm.

## **Decision**

Based on the circumstances of this case, I accept the evidence of the BCSPCA that it delivered its decision on May 27, 2022 at 2:21pm.

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, Mr. Pedersen was aware of the process with respect to the seizure of his animals and was also aware that a decision was going to be made by the Society. He had previously provided his email address, and that was the means by which he had communicated with the BCSPCA after the seizure of his animals. The onus was on Mr. Pedersen to ensure that he monitored his email account and met the deadlines with respect to filing his appeal.

As noted by the Presiding Member in *Ridland*:

“...the word “received” does not necessarily mean when the written reasons were delivered into someone's hands or read on a computer screen or even when a letter is opened. Instead, when a decision is “received” could involve circumstances where a letter or email remains unopened or a voicemail unheard if, as here, it had been available to be received, but for the inaction or conduct of the recipient. One could, I'm sure, imagine a situation where someone could delay indefinitely the receipt of material simply by refusing to open an email, for instance.”

As the notice of appeal was received after May 31, 2022, the appeal has been filed out of time and BCFIRB has no discretion to extend the time for filing the appeal.

Yours truly,

A handwritten signature in blue ink, appearing to read "Kirsten Pedersen", is written in a cursive style.

Kirsten Pedersen  
Executive Director/Registrar