

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:**

STEPHANIE-LYNN ST. PIERRE

**APPELLANT**

**AND:**

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

**RESPONDENT**

## **DECISION**

**APPEARANCES:**

For the British Columbia Farm Industry  
Review Board:

Jane Pritchard, Presiding Member

For the Appellant:

Stephanie-Lynn St. Pierre

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

April 26, 2024

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 (Duke) from Stephanie-Lynn St. Pierre (the Appellant), at her residence located in Vancouver, BC (the Property). The Property is a supportive housing facility which is run by the province for the benefit of economically vulnerable persons,
2. The Appellant is appealing the March 22, 2024, review decision issued under s. 20.2(4)(b) of the PCAA by Shawn Eccles, Senior Director, Animal Protection Services, of the British Columbia Society for the Prevention of Cruelty to Animals (the Respondent).
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 animal to their owner with or without conditions or to permit the Society, in its discretion to destroy, sell or otherwise dispose of the animal. The Appellant in this case is seeking the return of Duke.
4. On April 26, 2024, a BCFIRB hearing panel (the Panel) held a hearing via teleconference. The hearing was recorded.
5. The Appellant was not represented by counsel. The Appellant gave evidence on her own behalf and called one witness, S.C. The Appellant was supported at the hearing by two case workers, M.J., and C.H, who provided a phone and a quiet, safe place for the Appellant to use for the hearing.
6. The Respondent was represented by counsel and called no witnesses.

## **B. Decision Summary**

7. This decision concerns the repeated exposure of Duke, to situations where he suffered harm and distress over a period of months. This abuse was witnessed, reported, and documented by surveillance video on December 11, 2023, and was witnessed and reported on March 8, 2024. On these occasions Duke was observed being kicked in the ribs, having his paw stepped on, being punched in the back of the head, being kicked in the head, having his snout stomped and repeatedly being dragged by his leash on the sidewalk. On both occasions the Appellant had not given permission for Duke to be outside in the care of the abusers and was unaware of the circumstances.
8. The Panel is satisfied that Duke was in distress at the time of the seizure on March 12, 2024, as defined by Section 1(2) of the PCAA.

9. The Appellant has made steps to make changes in her life in the last 2 months to support having Duke returned to her, and she clearly cares deeply about him. However, the Appellant accurately stated repeatedly through the hearing that her current housing situation is not a safe environment for Duke.
10. Despite her efforts to secure a safe residence for herself and for Duke, there is currently no safe housing available for Duke to be returned to, and no confirmed safe housing that would be available with certainty in the immediate future. It is commendable that the Appellant is taking the steps to move towards a time when she could provide a safe environment for a dog, and the Panel wishes her every success with that effort. However, the Panel's decision is to not return the Animal to the Appellant's care.
11. As a result, and as further explained below, the Panel orders pursuant to section 20.6 of the PCAA that the Respondent is permitted in its discretion to destroy, sell, or otherwise dispose of the Animal, with the obvious hope and expectation that the Animal will be adopted unless circumstances somehow preclude that possibility.

### **C. Preliminary Matters**

12. At 9:50am on April 25, 2024, counsel for the Respondent emailed an application to BCFIRB staff seeking an order that the requirement that their expert witness, Dr. Rebecca Ledger, attend the hearing for cross examination be waived in accordance with Rule 5(19) of the Rules of Practice and Procedure for Appeals under the PCAA. The Respondent's submissions were as follows:

*I am writing regarding the report of Dr. Ledger and her inability to attend the hearing tomorrow (April 26, 2024). More specifically, the Society says her report ought to be accepted into evidence despite the Society not being able to present her for cross-examination. In this regard, the Society notes Rule 5(19) permits the BCFIRB to waive the requirement that an expert attend for cross-examination. The Society says an order of this nature is appropriate in this case for the following reasons.*

*1. Dr. Ledger does not need to be cross-examined on her qualifications. Dr. Ledger has been accepted as an expert behaviourist in countless legal proceedings including before this Tribunal, the BC Provincial Court, and the BC Supreme Court. The most recent Tribunal case where Dr. Ledger was qualified as an expert was in the case of Latour v. BC SPCA.*

*2. The Appellant has not provided any contradictory veterinary or expert opinion evidence and has not provided any submissions which indicate she does not agree with the assessment or recommendations for future care provided by Dr. Ledger.*

*3. Dr. Ledger has a duty to assist this Tribunal and not act as an advocate.*

*4. Dr. Ledger's report contains information that will be helpful to this Tribunal in making its decision.*

*Given the above, the Society says it is appropriate for the Tribunal to make an order pursuant to Rule 5(19) to waive the requirement for Dr. Ledger to attend for cross-examination on her report and to have it accepted as evidence for this appeal.*

*The Society asks that the above submissions be brought to the attention of the Panel Chair.*

13. The Panel allowed both parties to make submissions at the outset of the hearing concerning the Respondent's application.
14. The Appellant stated that she would prefer to have Dr. Ledger attend the hearing as she had questions to ask Dr. Ledger, however the Appellant further stated that she did not oppose the Respondent's application.
15. The Respondent had nothing to add to the emailed submission.
16. The Panel accepted the report of Dr. Ledger as an expert witness into evidence with the caveat that as Dr. Ledger was not present at the hearing to confirm her findings and be subject to cross examination, the weight that the Panel might otherwise have given to the report was potentially lessened.

**D. Material Admitted on this Appeal**

17. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-11.

**E. History Leading to Seizure of the Animal and the Day of Seizure**

18. On October 1, 2023, Special Provincial Constable (SPC) Felix Cheung attended the Property in response to a staff member at the Property alleging that a dog had overdosed three times and was not being cared for. The dog in question was Duke and SPC Cheung spoke to the Appellant advising her of the complaint.
19. SPC Cheung observed that Duke was scratching and shaking his head at the time of the visit. The Appellant indicated she did not have the funds to get veterinary care for Duke and SPC Cheung advised that he would investigate getting free veterinary care for him. SPC Cheung issued the Appellant a notice concerning his observations during that visit. Duke was later seen by a veterinarian at the Respondent's expense and the file was closed.
20. On December 12, 2023, the Respondent received a complaint from a member of the public. The complainant reported observing a man outside the Property the previous evening kicking a German Shepherd puppy several times, the puppy yelping and trying to run away, and the man dragging the puppy down the street.
21. SPC Cheung investigated the complaint and discovered surveillance video footage of the incident clearly showing the described abuse as well as additional instances of abuse occurring in separate incidents between 11:51:09 am and 1:12:59 pm on December 11, 2023. The puppy and the man seen in the surveillance video could not be identified at that time.

22. On February 18, 2024, SPC Cheung received further information indicating that the puppy in the surveillance video on December 11, 2023, was Duke and was owned by the Appellant.
23. On February 25, 2024, SPC Cheung went to the Property and was able to positively identify Duke as being the puppy in the December 11, 2023. videos. The Appellant however stated that she was unaware of the abuse and did not know the name of the man seen with Duke on the surveillance video.
24. At the February 25, 2024, visit, SPC Cheung did not note any obvious significant injuries or issues with Duke. He advised the Appellant that she must ensure that Duke does not end up with the person in the video or anyone else who could cause him harm again. The Appellant stated that she would never leave Duke unattended with anyone else again.
25. On March 8, 2024, the Respondent received a complaint from Vancouver Police Constable (CST) Cameron Allison that he observed a man, later identified as D.R., forcefully dragging a German Shepard dog along the sidewalk, kicking the dog in the chest, and stomping the dog's snout into the ground. CST Allison determined that the dog was Duke and belonged to the Appellant. CST Allison took Duke from D.R. and returned him to the Appellant.
26. On March 12, 2024, three Vancouver Police Department officers and SPC Cheung executed a warrant and seized Duke from the Appellant based on ongoing physical abuse and the Appellant's failure to protect him.

#### **F. Review Decision**

27. On March 22, 2024, Mr. Eccles issued his review decision in which he outlined his reasons for not returning Duke to the Appellant (the "Review Decision"). Mr. Eccles noted that he had reviewed the following materials prior to making the Review Decision:
  - File #370128 Inspection Follow-up Details (IFD) – October 1, 2023;
  - File #373075 Videos of Abuse – December 19, 2023;
  - File #373075 Inspection Follow-up Details (IFD) – February 25, 2024
  - Information to Obtain Warrant (ITO) & Signed Warrant – March 11, 2024;
  - File #376057 Inspection Follow-up Details (IFD) – March 12, 2024;
  - Notice of Disposition – March 12, 2024;
  - Veterinarian Records and Invoice for the Animal – March 12, 2024; and
  - Current Status list of the Animal
28. Mr. Eccles was satisfied, based on the evidence, that SPC Cheung reasonably formed the opinion that Duke was in distress, in accordance with the PCAA, and that his action to take custody of Duke to relieve him of distress was appropriate. Mr. Eccles further determined that based on the Respondent's records that the Appellant was given adequate and clear warnings regarding their duties under the

Act and that the Appellant failed to take adequate steps to protect Duke and the Appellant's plan for the Duke's future care did not seem realistic. For these reasons he concluded that it would not be appropriate to return the Animal to the care of the Appellant.

## **G. Key Facts and Evidence**

29. In an appeal under the PCAA, the Panel must determine whether the Animal was in distress when seized and whether the Animal 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.

### Appellant Testimony

30. The Panel notes that the Appellant attended the hearing late and struggled to provide clear and cogent testimony. The Appellant slurred and mumbled through much of her evidence and Respondent's counsel often requested that the Appellant speak up or clarify her evidence. The Panel was satisfied that despite the Appellant's difficulties, she had sufficient capacity to provide her evidence at the hearing.
31. The Appellant testified that Duke was initially a gift for her boyfriend when the dog was 5 weeks old. Her boyfriend is currently incarcerated and not due for release until August of 2024. She stated that neither she nor her boyfriend had ever abused Duke.
32. The Appellant stated that she has made several applications for housing in a safer location where she could keep Duke and that she has also applied for detox and rehab treatment. She noted that she was hoping to find somewhere for rehab where Duke could come along.
33. The Appellant repeatedly stated that Duke should not be returned to her at her current location as it was not a safe place for him.
34. The Appellant stated that on March 8, 2024, she had a doctor's appointment and could not take Duke with her. She stated that she fed, watered, and walked Duke for 20 minutes and then asked D.R. to stay in the same room with him, but not to take him out. D.R., who was homeless, was sheltering in the Appellant's room while the Appellant was living in her boyfriend's adjacent room with Duke, while her boyfriend was incarcerated. She stated more than once that D.R. did not have permission to take Duke out, that she never asked D.R. to walk him for her, and that she had never observed him abusing Duke before. The Appellant said that she would never leave Duke in D.R.'s care again.

35. At the time of the video recording of the abuse in December, the Appellant stated that she had been working and went in to have breakfast at the Evelyn Centre, where she could not take Duke. The Appellant asked a female friend to watch Duke while she ate. The Appellant fell asleep at the table during breakfast. The female friend looking after Duke had to leave and gave him to the man seen in the video to watch until the Appellant returned. The man was not known to the Appellant, and she had not given permission for Duke to be watched by this person.
36. When the Appellant awoke, she immediately found Duke and removed him from the care of the unknown male. She did not know him and still does not know his name. The female friend has moved to Prince George, and the Appellant has no contact information for that friend. The Appellant called Pet Outreach when she returned to her building, and they came over and did a quick examination of Duke. There was no further follow up for Duke noted.

#### Appellant Witnesses

##### S.C.

37. S.C. lives part time at the Property, and part time with her boyfriend in Maple Ridge and has known the Appellant for a couple of years. S.C. was not present at the Property on March 8, 2024, when the abuse in front of the Property occurred with Duke that was observed by CST Allison.
38. S.C. testified that the Appellant, based on S.C.'s observations of the Appellant with Duke and other animals, has never been abusive towards any animal and has never mistreated Duke.
39. S.C. stated, in agreement with the Appellant, that the Property was not a safe location for Duke. When asked if she would help with Duke she said yes, and referred to walking Duke, or watching him. When asked if she could take Duke at this time until the Appellant could find safe housing for herself and the dog, S.C. indicated it would take some reorganizing, and that she needed to know for how long, and that she was not ready to provide immediate support for such a placement.

#### Relevant information from the Veterinary and Animal Behaviourist reports.

40. Following the seizure of Duke on March 12, 2024, it was examined by a veterinarian and was noted to have mild discomfort on abdominal palpation, no lameness, normal behaviour, clear eyes, and superficial wounds on both hind legs. Duke was found to be clinically healthy with only minor superficial wounds. On his intake form with the Society, it was noted that he was friendly but anxious and had a mild discharge in both corners of both eyes.

41. On March 16, 2024, Duke was examined by an animal behaviourist, Dr. Rebecca Ledger. She described Duke as having “‘chewing gum’ behaviour”, an unsteady gait, a swollen left side of his face, a left pupil larger than the right that dilates ‘differently’, a facial twitch, stiff back legs, a cloudy less bright left eye, a head tilt, and that Duke was displaying jaw snapping behaviour, and stumbling.
42. Duke was seen by a veterinarian again on March 27, 2024, for a neurological exam as requested by Dr. Ledger. He was noted to be bright and alert but stressed and panting. He did not display any pain or discomfort, or mouth chattering during the exam. He had a very slight head tilt to the right, and his pupils were normal and the same size. He was noted to be cryptorchid (only one testicle in the scrotum).
43. At the neurological exam Duke had high anxiety and refused to take any treats and only played briefly with a toy. Duke displayed stress signs of lip licking and panting, pacing, not settling down, and looking for escape routes. As a result of the exam, it was recommended that Duke be provided with behaviour enrichment in the shelter and medication to reduce the signs of fear, anxiety, and stress that he exhibited. Gabapentin and Trazadone were dispensed by the attending veterinarian for Duke.

## **H. Analysis and Decision**

44. 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.

45. 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.

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

#### **I. Return of Duke**

47. The Panel is satisfied that Duke was in distress at the time of the seizure on March 12, 2024, as defined by Section 1(2) of the PCAA and makes that finding accordingly. The Panel notes that the definition of distress includes an Animal that has been 'abused' and that the abuse can be historical and does not need to be immediately concurrent with the seizure.
48. The video surveillance footage from December 11, 2023, of Duke being beaten and dragged by an unknown male, and CST Allison's description of his observation of Duke being beaten and dragged by D.R. on March 8, 2024, are clear instances of abuse.
49. The finding that Duke was abused is further supported by the veterinary evidence following his seizure confirming skin abrasions consistent with the described violence.
50. The Appellant did not contest that the instances of violence described above occurred as reported. The Appellant noted that she would have liked to question both SPC Cheung and Dr. Ledger with respect to the evidence submitted on this appeal. However, the Appellant did not take any steps to summon those witnesses and did not provide any evidence of her own that would have led to any other conclusion than that the Animal had clearly suffered abuse.
51. There are no allegations of physical violence by the Appellant against Duke,
52. Having found that Duke was in distress at the time of the seizure the Panel turns to the issue of whether Duke can be safely returned to the Appellant's care. The Panel notes as follows:
- i) The Animal is a young dog, just over a year of age, showing significant signs of stress and anxiety best explained by his exposure to the repeated violence against him.
  - ii) The Appellant and her witness S.C. have clearly stated that the Property is not a safe location for the Animal to return to.

- iii) The Appellant has made steps towards finding safe housing for herself and for the Animal but unfortunately nothing is currently available. There are a great many steps ahead in the road to securing safe housing that are outside of the Appellant's control and so a timeline for having safe housing is not available. It is commended that the Appellant is working towards improving her housing situation and her wellbeing and we wish her every success in this.
53. The Panel acknowledges that the violence against Duke was not at the hands of the Appellant and that many circumstances outside of the Appellant's control led to the seizure of Duke.
54. However, the Panel does not find that returning Duke to the care of the Appellant would be in his best interest. Returning Duke to the Appellant at the Property does not provide the Panel with any assurance for his on-going safety and in fact, as acknowledged by the Appellant, a return to her care at the Property would invariably put him at further risk of distress. Furthermore, the Appellant has not provided any alternative arrangements that could be made for Duke while she resolves her housing issues. Therefore, the Panel has no alternative other than to order that Duke will remain in the care of the Respondent as set out in further detail below.

## **J. Costs**

55. 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.

56. 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)".

57. The Respondent is seeking costs as follows:
- |   |                   |
|---|-------------------|
| (a) Veterinary costs:                     | \$779.79          |
| (b) Society time attending to seizure:    | \$82.17           |
| (c) Housing, feeding and caring for Duke: | <u>\$1,041.00</u> |
| <b>(d) Total:</b>                         | <b>\$1,902.96</b> |
58. On the matter of costs, the Respondent's submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of Duke. The calculation of these estimates has been reviewed and supported in previous appeals.
59. The Appellant acknowledged that the Respondent had incurred costs because of the seizure and did not contest the evidence presented by the Respondent regarding costs. The Appellant stated that she would do her best to pay the Respondent's costs.

**K. Order**

60. After careful consideration of the written and oral evidence presented in this hearing, the Panel makes the following orders.
61. The Panel orders pursuant to section 20.6 of the PCAA that the Respondent is permitted in its discretion to destroy, sell or otherwise dispose of the Animal, with the obvious hope and expectation that the Animal will be adopted unless circumstances somehow preclude that possibility.
62. The Panel further orders, pursuant to s. 20.6(c) of the PCAA, that the Appellant is liable to the Respondent for the amount of \$1902.96 as the reasonable costs incurred by the Respondent with respect to veterinary care and housing for Duke.

Dated at Victoria, British Columbia this 9<sup>th</sup> day of May 2024.

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**  
**Per:**




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Jane Pritchard, Presiding Member