



# Civil Resolution Tribunal

Date Issued: April 13, 2022

File: SC-2021-007918

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Simpson v. Master Care Janitorial and Facility Services Inc.*,  
2022 BCCRT 427

B E T W E E N :

JESSICA SIMPSON

**APPLICANT**

A N D :

MASTER CARE JANITORIAL AND FACILITY SERVICES INC.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

1. This dispute is over alleged nuisance and personal injury. The applicant, Jessica Simpson, says an employee (K) of the respondent janitorial company, Master Care Janitorial and Facility Services Inc. (MCJFS), has been aggressive towards Ms. Simpson and her service dog in training. Ms. Simpson alleges she sustained an unspecified personal injury and also makes a nuisance claim for K's alleged conduct. Ms. Simpson claims \$5,000 in damages.
2. MCJFS says Ms. Simpson failed to control her dog around K. MCJFS also says Ms. Simpson has been abusive towards K and orchestrated confrontations between her dog and K. MCJFS denies owing anything.
3. Ms. Simpson is self-represented. MCJFS is represented by its owner and president, Terry Laferte.
4. For the reasons that follow, I dismiss Ms. Simpson's claim.

## **JURISDICTION AND PROCEDURE**

5. 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). CRTA section 2 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, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
8. 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.
9. Ms. Simpson lives in a strata corporation that MCJFS provided janitorial services to. In the Dispute Notice, Ms. Simpson says she seeks additional relief to have “this caretaker immediately removed” from the strata corporation. I have no jurisdiction to grant this remedy and I decline to do so. First, that is an order for injunctive relief which is outside the CRTA section 118 small claims jurisdiction. Second, the strata corporation undisputedly has the responsibility for the repair and maintenance of common property and the evidence shows it was the strata corporation that hired MCJFS. The strata corporation is not a party to this dispute. So, given this and my conclusion below, I would not have made the requested order even if I had jurisdiction. I say the same about Ms. Simpson’s raising a “concern as an owner” about MCJFS’ cleaning performance, again given this is unproven and because the strata corporation is responsible for common property cleaning. Finally, I similarly have no jurisdiction to find K committed any offence under the *Criminal Code*, which Ms. Simpson alleges in her submissions, although I note there is simply no evidence before me to support such an allegation.

## **ISSUES**

10. The issues in this dispute are whether Ms. Simpson sustained any personal injury or damages as a result of MCJFS’ employee K’s alleged conduct, and if so, whether Ms. Simpson has proved she is entitled to \$5,000 in damages.

## EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant Ms. Simpson must prove her claims on a balance of probabilities (meaning “more likely than not”). I have read all the parties’ submitted evidence and arguments but refer only to what I find relevant to provide context for my decision.
12. In short, Ms. Simpson says MCJFS’ employee K has “always shown disgust” towards Ms. Simpson and has been “aggressive” towards Ms. Simpson’s service dog in training, which she acquired in June 2021. For the purpose of this decision, I will assume Ms. Simpson’s dog was a service dog in training under the *Guide Dog and Service Dog Act*, though Ms. Simpson submitted no evidence to prove this. Nothing turns on it in any event.
13. In addition to the disgust Ms. Simpson alleges K showed because of Ms. Simpson’s gender identity, Ms. Simpson says K “always aggressively slams her vacuum into my door at early hours of the morning”. Ms. Simpson says K’s aggression towards her dog, on numerous occasions, including screaming at it, scaring it, and “taking him out of tasks he is trained to perform”. Ms. Simpson adds that K has also raised her broom on numerous occasions towards Ms. Simpson’s dog. Ms. Simpson alleges K’s behaviour had caused her a personal injury but does not provide details other than referencing her diabetes and anxiety.
14. As for nuisance, Ms. Simpson says K’s behaviour has interfered with her ability to enjoy the strata’s common property and has allegedly caused her undue hardship and fear.
15. I find I do not need to address MCJFS’ defence in great detail. In short, I find Ms. Simpson has failed to prove K acted improperly towards her or her dog. One video in evidence shows Ms. Simpson around a person I find is K, with Ms. Simpson seemingly going out of her way to approach K and asking her aggressively if K was going to leave. K said nothing and appeared calm. Ms. Simpson then began swearing at her and calling her “[obscenity] insane”. Toward the end of this video, I find Ms.

Simpson also failed to control her leashed dog which appeared to lunge towards K, who then made fearful noises. I find it does not matter if K has a fear of large dogs or not (as MCJFS alleges and Ms. Simpson denies), as the material point is that there is no evidence before me that K did anything improper. Based on the video, I find Ms. Simpson was the aggressor.

16. I note Ms. Simpson relies on a witness statement from her mother, MY. MY generally says she has seen K act aggressively. I place no weight on this evidence, as it lacks specificity, is inconsistent with the other evidence before me, and because I find MY is not a neutral witness given her relationship with Ms. Simpson. Conversely, I note Ms. Simpson submitted no witness statements from any of her neighbours in support of her allegation that K was aggressive towards her or her dog.
17. I acknowledge MCJFS admits that on one occasion K put her broom against the dog as the dog approached her, though there is no other evidence of this before me apart from Ms. Simpson's allegation. Based on the evidence the dog approached K, which is consistent with its doing so on the video in evidence, I cannot conclude K acted unreasonably nor can I conclude K's actions interfered with Ms. Simpson's ability to enjoy common property or that it caused her any personal injury. In any event, given my conclusion below I find nothing turns on it.
18. First, there is no recognized tort of harassment in BC, which I find is the substance of Ms. Simpson's claims based on allegations K yelled and screamed at her. Second, given the video interaction described above, I find no evidence K is responsible for Ms. Simpson's alleged inability to enjoy the strata's common property, so I will not detail the law of nuisance here. The BC Human Rights Tribunal decisions cited by Ms. Simpson do not assist her in this civil dispute, noting that they turn on alleged discrimination. While Ms. Simpson alleges K discriminated against her based on her gender identity, I find this entirely unproven on the evidence before me (including the submitted video). In any event, Ms. Simpson claims no remedy based on the alleged discrimination. While MCJFS notes Ms. Simpson's racial bias against K (which Ms.

Simpson admits, saying it is based on fear from past experiences), MCJFS filed no counterclaim and so I will not address that further.

19. Third, Ms. Simpson submitted no supporting evidence that she sustained any personal injury or that her dog did. She claims K's behaviour kept the dog off task but provided no details or supporting evidence (despite apparently filming other interactions). There are no medical records and no veterinary records. Ms. Simpson does not explain why she claims \$5,000 or how she arrived at that figure, though I infer she claimed that amount because it is the CRT's maximum for small claims disputes.
20. In short, I find Ms. Simpson's claim must be dismissed. I find no evidence that MCJFS or K did anything that would form a legal basis for a civil claim and, even if they did, I find Ms. Simpson has failed to prove any damages.
21. Finally, I note Ms. Simpson refers to the *Prevention of Cruelty to Animals Act* that says it is an offence to interfere with a service dog. I have no jurisdiction to find any offence under that statute, but as noted above I find no evidence that would allow me to conclude such an offence occurred.
22. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Neither party paid CRT fees nor claimed dispute-related expenses, so I make no order about them.

## **ORDER**

23. I dismiss Ms. Simpson's claims and this dispute.

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Shelley Lopez, Vice Chair