# IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Canadian Yorkshire Terrier Rescue v. Myatt, 2006 NSSM 42

2006

#### **BETWEEN:**

SCC No. 268730 Date: 20061102

Name:	Canadian Yorkshire Terrier Rescue	Claimant
- and -		
Name:	Lisa Myatt	Defendant

**Revised Decision:** The text of the original decision has been revised to remove personal identifying information of the parties on March 9, 2007. This decision replaces the previously distributed decision.

#### **Appearances:**

Claimant:Eric D'Entremont, Agent for ClaimantDefendant:Self Represented

## **DECISION**

- [1] This matter came before the Court on Thursday, October 26, 2006. For the reasons given at the conclusion of the hearing, I am ordering that the Defendant return to the Claimant the dog named "Bailey".
- [2] In making this ruling, I wish to emphasize that in no way is this meant as a reflection of the care-giving abilities of the Defendant or the affection that she has for "Bailey". However, as I stated at the hearing, such is not a legal basis for the making of the decision herein. Rather, I base my decision on the fact that in the law a dog can be the property of a person, in this case the Claimant herein. As a proposition of law, this is indisputable.
- [3] When the Defendant took possession of Bailey in or around early April of this year, she clearly understood that she was not taking ownership of the dog but only possession. She

acknowledges that. Ms. Myatt further acknowledges that she was to have transferred possession of the dog given back the Claimant through a neighbour at a meeting which was scheduled for April 26, 2006. For reasons unrelated to the Claimant, that meeting did not take place. Following that, the Claimant made numerous attempts to get in touch with the Defendant but she did not return the calls or communications. I am satisfied that the Claimant in no way "sat on its rights".

- [5] This Court is required by Section 2 of the *Small Claims Court Act* to adjudicate claims "...*in accordance with established principles of law and natural justice*". The basic principles of law applicable here is that the Claimant owns the dog in question and gave temporary possession, clearly understood by all, to the Defendant. At no time did the Claimant give any indication that it was giving the dog to the Defendant, to the contrary, all of its communications indicated otherwise.
- [6] For these reasons and as stated at the hearing, there is no basis in law that the ownership could be seen to have been transferred from the Claimant to the Defendant. Accordingly, and as stated above, I am ordering that the possession of the dog "Bailey" be returned to the Claimant. In light of the special circumstances here, I am not allowing costs against the Defendant.

### Disposition

[7] IT IS HEREBY ORDERED that the Defendant, Lisa Myatt, give up possession and deliver to the Claimant herein the dog named "Bailey".

**Dated** at Halifax, this 2<sup>nd</sup> day of November, 2006.

Michael J. O'Hara Adjudicator Original Court File Copy Claimant(s)

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Defendant(s)

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