



RAPS | Regional Animal
Protection Society **RAPS**
ANIMAL
HOSPITAL

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April 14, 2021

Honourable Harry Bains,
Minister of Labour, British Columbia
PO Box 9064, Stn Prov Govt
Victoria, BC, V8W 9E2

Dear Minister Bains,

We are writing to you to ask that your government address a situation that could put the lives of animals and the security of people who care for them in jeopardy.

Volunteers who sit on an animal rescue's board of directors do so because they want to help animals. What these board volunteers don't realize is what happens when federal, provincial, municipal, property, labour and animal cruelty laws and regulations produce conflicts and unintentionally place the directors of an animal charity in legal jeopardy.

Issues arise around the fact that the federal government oversees the animal cruelty provisions in the *Criminal Code*, while the provinces have jurisdiction over their own provincial animal cruelty laws and property laws, under which animals are defined as chattel.

The problem could arise when an organization is caught between labour relations regulations and animal cruelty laws. In the event of a labour disruption, management – including the volunteer board – could be found guilty of contravening a collective agreement, on the one hand, or of animal cruelty through failure to deliver needed care, on the other.

In certain circumstances, these laws could place a volunteer board in criminal liability resulting in either a \$75,000 fine per person or upwards of five years in jail for having been found guilty for animal cruelty when inadvertently also following labour regulations related to union strikes or walk-outs. For example, if staff of an animal rescue organization strike and there is no one there to feed and take care of the animals, criminal charges for animal cruelty can be laid.

The *Criminal Code* specifically states one can be criminally liable for failure to exercise reasonable care to prevent the suffering of an animal. In matters of a labour dispute, the animal rescue organization is subject to the same rules for picketing and replacement workers as any other unionized employer. The employer is not permitted to supplement care for the animals with volunteer labour. That is deeply problematic for the animal organization. All the animals need food, water or multiple doses of medications and/or medical treatments daily. Some of these animals could die within hours if they do not receive their daily medications.

It is well established that Canadian law recognizes the union's right to strike as protected by the collective bargaining process. In some cases, such as frontline emergency service providers, a labour dispute may pose a threat to the health, safety or welfare of citizens, therefore an essential services designation is applied. When the Labour Board designates services as essential, the employer is required to provide those services, and the union is required to allow its members to perform those services, in the event of a strike or lockout.

While essential service legislation protects humans, it does not include similar protections for the welfare of animals. If a unionized animal care organization has hundreds of animals under its care needing basic daily necessities and health care and the union initiates a strike, who will care for the animals? It is prohibited by law to replace the workers with new workers or volunteers. The animal organization must abide by either the labour code or animal cruelty legislation. It is a catch-22.

Unions generally oppose essential service clauses in collective agreements because it limits their bargaining advantage by striking to force favourable terms for their members. However, animal organizations cannot abrogate their responsibility under animal cruelty legislation to provide sufficient care for the animals in the wording of a collective agreement where essential services are not properly defined to protect animals.

The lack of “essential services” designation in collective agreements in relation to animals places an animal organization’s board of directors in a vulnerable legal position.

BC Labour Relations Code [SBC 1992] Chapter 82 Section 72 “Essential Services” paragraph (1) states the following:

Essential services

72. (1) If a dispute arises after collective bargaining has commenced, either of the parties to the dispute may apply to the chair to investigate or the chair on his or her own motion may investigate whether or not the dispute poses a threat to the health, safety or welfare of the residents of British Columbia and report the results of the investigation to the minister.

The Labour Board refers to the BC Labour Relations Code when designating an application for essential services and because there is no language that references animals, the Labour Board is not obligated to provide an essential services designation in the protection of animals. That leaves the animal organization Board of Directors and staff open to potential criminal liability.

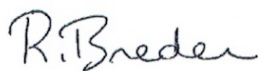
It is therefore imperative that labour regulations in Canada recognize the care of animals as essential to preserve the life, health, safety and basic needs of all animals in the employer’s care so that the organization is never offside with animal cruelty legislation. In the event of a labour dispute, the parties need to agree to allow employees and volunteers to provide the “essential services”, at regular service levels that allow for the health, safety and life of the animals.

Anything less than this would not only abrogate the directors’ fiduciary duties to the organization and open them to potential criminal liability, but it would endanger the lives of animals who have learned to depend on, and trust, the humans caring for them.

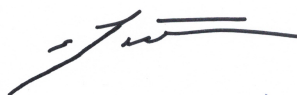
We ask that you recognize as an essential service the health, safety or welfare of animals and the organizations that provide the services for the rescue and care for animals.

If there is any additional information we can provide or if you wish to discuss this with us, we are available at any time.

Sincerely,



Rebeka Breder,
Director
Animal Rights Lawyer at Breder Law



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