

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

BETWEEN:

ARLENE LAGIMODIERE,

- and -

plaintiff,

THE ATTORNEY GENERAL OF CANADA,

defendant.

STATEMENT OF DEFENCE

FILED 3500
MAY 17 2021

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STATEMENT OF DEFENCE

OVERVIEW

1. The Attorney General of Canada ("Canada") understands that this claim is directed towards the Royal Canadian Mounted Police ("RCMP"). Specifically, the Plaintiff claims that the RCMP is strictly liable for injuries caused by a police service dog ("PSD") that was deployed in apprehending the Plaintiff during the execution of a search warrant.

2. However, strict liability does not apply to the RCMP's use of a PSD. Further, the RCMP committed no torts and satisfied all other applicable duties in its use of a PSD to apprehend the Plaintiff. Consequently, the claim against Canada should be dismissed.

THE CLAIM AS PLED

3. Canada denies the assertions in paragraphs 2, 3 and 4 of the Statement of Claim, except as hereinafter described. Canada therefore denies that the Plaintiff is entitled to the relief claimed in paragraph 1 or otherwise.
4. In further response to paragraph 2, Canada says that the RCMP breeds, owns and trains PSD for specialized use, including the apprehension of criminal suspects. On the morning of August 13, 2020, a PSD and PSD handler, along with several other RCMP officers, were engaged in the execution of a search warrant at Sandy Bay First Nation. During the execution of this warrant, the Plaintiff attempted to flee the scene and she was apprehended by a PSD. She was then arrested. RCMP officers promptly treated the Plaintiff's injuries, and, later that morning, she was transported to the Portage District General Hospital for further treatment.
5. In further response to paragraphs 2 and 4, Canada says that RCMP officers observed injuries to the Plaintiff's left knee during the course of her arrest. Canada has no knowledge regarding injuries sustained to the Plaintiff's left shoulder. Canada denies that the PSD "devoured" any part of the Plaintiff. Canada has no knowledge of the Plaintiff's injuries or medical treatment following her discharge from the Portage District General Hospital.
6. In further response to paragraph 3, Canada denies that strict liability applies to the RCMP's deployment of a PSD. Further, the RCMP satisfied all required duties in their use of a PSD to apprehend the Plaintiff.

CANADA'S POSITION

7. Although not pled, Canada understands the Plaintiff's position to be that Canada is liable pursuant to subsections 3(b)(i), 3(b)(ii), and 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50 (the "CLPA"), and subsection 2(1) of *The Animal Liability Act*, S.M. 1998, c. 8 (the "Animal Liability Act").
8. Canada admits that the officers involved in apprehending the Plaintiff were at all material times members of the RCMP. Proceedings against the Federal Crown are to be taken in the name of the Attorney General of Canada pursuant to subsection 23(1) of the *CLPA*. Canada admits that it is vicariously liable for the actions of federal Crown servants acting within the scope and course of their duties. Canada admits that at all material times the RCMP was governed pursuant to the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10.
9. Canada says that the *Animal Liability Act* does not apply to the Crown in Right of Canada. Canada pleads and relies upon the *Animal Liability Act*; *The Interpretation Act*, S.M. 2000, c. 26, including section 49 thereof; and the doctrine of Crown immunity.
10. Canada says that its servants did not commit any tort in the apprehension of the Plaintiff by the use of a PSD. Canada says that it is not liable for a breach of any duty attaching to the ownership, possession or control of the PSD in these circumstances. The PSD handler and all other officers involved satisfied all applicable duties in the apprehension of the Plaintiff.

11. Canada asks that the Claim be dismissed with costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Date: May 14, 2021


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