Date: 20261116
Docket: CI 22-13-00593
(Selkirk Centre)
Indexed as: Neutt v. Gray et al.
Cited as: 2026 MBKB 159

COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

CHERYL NEUTT,	)	Cheryl Neutt
	)	on their own behalf
plaintiff,	)	
	)	
- and -	)	Renato Y. Mamucud
	)	for the defendants
MATTHEW ROBERT GRAY and	)	
NATASHA HENDERSON-GRAY,	)	
	)	JUDGMENT DELIVERED:
defendants.	)	November 16, 2026

LANCHBERY J.

INTRODUCTION

[1] "Fences make good neighbours" an oft quoted line by the American poet, Robert Frost. The litigants in this action should have paid attention.

[2] That is not to say the three litigants are not good people. In fact, they are. These three people should be proud of their accomplishments. Building a fence between their properties could have solved their problem. Listening to each other instead of speaking "at each other" could have led to reasonable accommodations.

[3] As in so many of these neighbourly disputes, would have, could have or should have never occurred. The result is court action. When the testimony concluded in this action, the litigants were painfully aware this was not their finest hour.

THE EVIDENCE

[4] The defendants, Matthew Gray ("Matthew") and Natasha Henderson-Gray ("Natasha"), purchased their dream property along the Winnipeg River in 2015 (Exhibit 2, Tab 10 – Status of Title). There are walking trails in the large, forested portion of the land. This forested area shields them from their neighbours. The land provided food for foraging. This provided an escape from the hustle and bustle of the real world.

[5] By 2017, the plaintiff, Cheryl Neutt ("Cheryl"), purchased the adjacent property. Cheryl's boundary was east of the forested area of Matthew and Natasha's property. Cheryl decided this rural property would be a great location to raise rescue dogs. The rescue dog concept originated during a course of employment on an Indigenous reserve. These dogs were free to roam without restrictions on the reserve.

[6] Cheryl determined her rescue dogs could continue to roam free. So began the unfortunate series of events that were described in detail unfolded over the two days of evidence. Cheryl's dogs showed aggressive tendencies. The defendants' evidence, which I accept, was they did not dare go walking in the forested area of their property as Cheryl's dogs approached them in an aggressive

manner. The dogs roamed so free- approaching the defendants' residence- and photographs were introduced into evidence confirming the aggressive stance of Buster and Shadow in particular. Although the local municipality by-laws place restrictions on the number of dogs any landowner may house on their property, Cheryl far exceeded that number. The evidence as to the precise number is inconsistent. Nonetheless, a minimum of seven dogs were present on Cheryl's land pre-Covid. Matthew and Natasha's motivation for purchasing the idyllic property was negatively impacted by Cheryl's actions.

[7] Matthew testified he was bitten by a dog that Cheryl confirmed was Shadow, which she identified by Matthew's description of the dog. Matthew wore chainsaw pants on the day in question. These protective pants worked as designed to reduce potential injuries. Matthew attended the local emergency department and the treatment record is found at Exhibit 2, Tab 4. The physician described the incident as a dog bite to the shin, which was non-perforating, confirming Matthew's evidence. The record also noted there was a contusion on Matthew's right hand as a result of Matthew punching the dog.

[8] Matthew provided training to members of the Canadian Military in hand-to-hand combat. This training includes how to respond if a dog were to attack. There is no evidence Matthew deployed all his training when deterring Shadow, Buster, or any dog from threatening him or a member of his family or their guests. This familiarity with aggressive dogs tempers his evidence.

[9] Cheryl lacked prior experience in handling rescue dogs. Cheryl's evidence is she registered a business as a dog rescue. I accept this is what she believed her actions were, but all she did was register a corporation as "Black River Animal Aid Inc." (Affidavit of Documents of the Plaintiff – Court Filing #11, Tab 3).

[10] The dogs in question are best described as feral. The aggressive tendencies of feral dogs displayed continued post rescue. Cheryl's lack of knowledge permitted the dogs to roam as before. There was a dog kennel on the property, but the dogs were not always housed inside the kennel. When the dogs were out of the kennel, the plaintiff did not place them on leashes. Her evidence was she believed the dogs should be able to roam. This included "doing their business" on the defendants' property. The dog feces on their property added to the defendants' grievances concerning Cheryl's conduct.

[11] The evidence demonstrates there were early attempts to resolve the dispute. I would describe the attempts as a lot of talking, but not a lot of listening by all the litigants.

[12] This lack of communication soon spun out of control. Accusations flew back and forth. A first-year law student knows what follows next. Security cameras were installed. The parties started photographing and videorecording each other near the property line.

[13] Surveys were ordered. The first survey revealed the property line, and survey monuments were installed (Exhibit 2, Tab 5). Boulders were placed on what Cheryl believed to be the property line. She allowed vehicles to park on land

which she also believed to be hers. The second survey prepared by Stevens Surveys (Exhibit 2, Tab 19) shows the position of Cheryl's residence relative to the property line. Cheryl's earlier assumptions proved to be incorrect.

[14] With this knowledge, Cheryl approached Matthew and Natasha to share the cost of constructing a fence on the property line. The request was refused. It was Cheryl who required the fence to keep her dogs from entering Matthew and Natasha's property. Matthew and Natasha did not need the fence at all. Robert Frost knew fences make good neighbours which Matthew and Natasha chose to ignore. This simple solution, if acted upon, could return Matthew and Natsha's property to its idyllic state.

[15] Matthew and Natasha's reason for refusing to agree to share the cost of a fence was that Cheryl's other dream for her property was to construct two basement suites for a proposed bed and breakfast operation. The Rural Municipality ("R.M.") of Alexander had issued a Conditional Use Application on February 13, 2018, for this purpose, subject to "5) A fence must be constructed along the property line between the subject property and the adjacent neighbouring property to the west" (Exhibit 2, Tab 17).

[16] Cheryl requested the R.M. of Alexander remove condition #5. This request was refused (Exhibit 2, Tabs 19 and 20). If Cheryl was not aware prior, in a letter dated February 11, 2019 (Exhibit 2, Tab 21), the R.M. advised her the bylaws restricted her to a maximum of three dogs on her property at one time.

[17] The original area photograph showed a garden plot on Matthew and Natasha's land. The evidence is clear the garden was planted and maintained by the previous owner of Cheryl's land. What was not an issue in the two years prior to Cheryl's purchase of the land became a major issue due to the presence of the feral dogs on Matthew and Natasha's land.

[18] After some time, Cheryl purchased a large, cumbersome, wooden dock for her property. Instead of placing this dock on her property, she put it on Matthew and Natasha's property. The evidence was not clear when the dock was placed on the property. I find if the dock was to be placed in the Winnipeg River, the easiest unimpeded point of access to transport the dock into the Winnipeg River was on the east side of Cheryl's property, not on the west side.

[19] Inevitably, "NO TRESPASSING" signs were installed by Matthew and Natasha, adding to Cheryl's frustration.

[20] The basis for Cheryl's trespass allegation was Matthew threw broken boards from the dock into the kennel. Cheryl introduced photographs captured from her security camera showing Buster in the kennel where the broken boards are visible. She did not introduce video evidence showing whether Buster was present or not when the boards were thrown into the kennel. Although Matthew admitted under cross-examination he threw the boards into the kennel, he denied Buster was present when he did so.

[21] Matthew, without authorization, removed the hitch from the dock making it next to impossible for Cheryl to move the dock absent significant repair.

[22] Cheryl alleged that by throwing boards over her fence onto her property, Matthew tried to harm her dog, Buster. The evidence shows Buster suffered an eye injury and was treated by a veterinary expert in animal eye injuries, but the evidence failed to establish it was Matthew's action that caused the eye injury. Cheryl is an experienced nurse and suggested she would know if Buster's eye was injured as a result of the board throwing incident.

[23] Based on the evidence provided, it is likely the injury occurred while Cheryl and Buster were in Ontario during the COVID-19 pandemic when Cheryl was absent from Manitoba and worked administering COVID-19 vaccinations.

Findings

[24] I find Cheryl permitted her rescue dogs to run loose on Matthew and Natasha's property without a colour of right committing the tort of trespass to property. She lost control of the animals in her care interfering with Matthew and Natasha's right of quiet enjoyment.

[25] I find that Matthew and Natasha trespassed on the property of Cheryl's by damaging the dock as described herein. Further, Matthew committed trespass when wood was thrown onto Cheryl's property without a similar colour of right.

The Position of the Parties

[26] The parties acknowledge trespass. Cheryl's position is each party is at fault. Matthew and Natasha's position is that there was trespass to chattels and is statute barred under ***The Limitation of Actions Act***, R.S.M. 1987, c. L150 ("the ***Act***"), which was in effect on May 9, 2020 (see s. 2(1)(g) of the ***Act*** in effect prior to

May 20, 2021). Trespass to real property in the prior ***Act*** was six years (see s. 2(1)(f)).

CASE LAW

[27] Trespass is an unauthorized encroachment onto another's land. In ***Mayer v. Athanasopoulos***, 2022 ONSC 5286, citing ***Grace v. Fort Erie,*** 2003 CanLII 48456 (Ont. Sup. Ct):

> [13] … Crane J. provided the following summary of the elements of the tort of trespass (at para. 86):
>
> > The elements of trespass have been described as follows:
> >
> > - Any direct and physical intrusion onto land that is in the possession of the plaintiff (indirect or consequential interference does not constitute trespass).
> > - The defendant's act need not be intentional, but it must be voluntary.
> > - Trespass is actionable without proof of damage.
> >
> > While some form of physical entry onto or contact with the plaintiff's land is essential to constitute a trespass, the act may involve placing or propelling an object, or discharging some substance onto the plaintiff's land can constitute trespass.

ANALYSIS

[28] The principal argument of Matthew and Natasha is destruction of Cheryl's dock and throwing broken boards into the kennel are trespass to goods is defeated by bullet point four in ***Mayer***.

[29] The damage to the dock is trespass to goods, however, the evidence is this dock was never put to its intended use on the Winnipeg River by Cheryl. Cheryl's

evidence is this dock was transported from British Columbia. As the dock was never used to moor boats of any kind in the Winnipeg River, its value is minimal.

[30] By separating the dock's hitch, value of the dock was further reduced.

[31] By propelling the damaged decking boards into the kennel, Matthew and Natasha committed trespass to property, not goods.

[32] Cheryl permitted her dogs to run loose. The evidence confirms she did so willingly. There was no justification for her decision to do so. By definition, her actions were voluntary. Whether Cheryl's dogs should be considered sentient beings or personal property does not change the fact she knew her dogs were running loose and entered Matthew and Natasha's property and thereby committed trespass.

[33] This was not a difficult decision. The tort of trespass to property occurred by Cheryl, and by Matthew and Natasha. The litigants proved their respective cases.

DAMAGES

[34] The evidence is clear Matthew and Natasha suffered damages due to Cheryl's trespassing on their property. Matthew was injured as a result of a dog bite. There was a loss of enjoyment of their property with feral dogs running loose on their property. The fact that Cheryl chose to prefer permitting her dogs to run loose rather than be under control is an important consideration for the court.

[35] The evidence is clear Cheryl suffered damage due to Matthew throwing broken boards into the dog run committing trespass. Counsel for Matthew and Natasha argued Matthew, as a former member of the Canadian Armed Forces trained in close combat, exercised great restraint in not injuring Cheryl's dogs, is rejected by me. Removing boards from Cheryl's dock and propelling them into a run are an intentional act of intimidation. I accept Matthew's evidence Buster was not in the dog run at the time. I also find that Matthew was aware that his actions were being captured on video and Cheryl would know who threw the boards into the dog run. A person who sends such a message fails to show restraint, especially a person with military training. Acknowledging that Matthew suffers from post traumatic stress disorder as a result of his military service does not justify his actions in this case. Further, I accept his evidence he continues to train members of the Canadian military in close contact combat tactics confirms the military does not believe his condition is such to prevent him from such training.

[36] Damages are presumed once trespass is proven. Both parties are successful; each are entitled to damages.

[37] Matthew and Natasha cite ***R.D.F. (Litigation Guardian of) v. General Insurance Co.***, 2004 MBCA 156, in support. At issue in ***R.D.F.*** was a duty to defend. However, Hamilton J.A. states (at para. 61):

> Even though the fire was intentionally started, the damages to the school may very well have been unforeseen physical consequences; that is, they were not substantially certain. The claim in negligence is properly pleaded. So too is trespass to property….

The actions in trespass where, if proven, damages are presumed so the value of the above case is limited.

[38] Matthew and Natasha also cite ***Marshall v. Woodlands (Rural Municipality)***, 1947 CanLII 426 (MB CA), in a split decision confirms that where a trespass occurs, damages for trespass may include additional damages for aggravated and unjustified additional damages. (See ***Paffard v. Cavotti***, 1928 CanLII 471 (ON SCAD); and ***Davis v. Bromley Urban Dist. Council***, (1903), 67 J.P. 275.)

[39] Matthew and Natasha failed to provide any suggestion as to quantum of damages. It is also true that Cheryl did not provide any suggestion on quantum.

[40] It is also true in this case "two wrongs do not make a right". I note from some time after the May 9, 2020 incident, Cheryl worked in Ontario, returning in 2022, when this claim was filed.

[41] Although photographs were submitted by Matthew and Natasha in support of their claim, these photographs were undated and metadata within the photographs was not introduced. Cheryl confirmed these photographs were of Buster and Shadow, but there is no evidence Buster and Shadow were constantly on Matthew and Natasha's property.

[42] Although the request to equally divide the cost of a fence was a condition of Cheryl's application to operate a bed and breakfast on her property, I find if the concerns about Cheryl's dogs were so troubling, the reasonable course of action for Matthew and Natasha was to pay for half of the cost of the fence.

[43] I considered Cheryl should have ordered a Building Location Certificate at the time she purchased the property. Although not required in a rural setting, it is clear there were concerns about the property line from day one. As the previous owner is deceased, the court is without evidence to verify what was told to Cheryl concerning the garden area. It is equally true that Matthew and Natasha were not able to confirm what was told to them about the property when they purchased the adjoining property.

[44] This paucity of evidence does not eliminate presumed damages, but the absence of evidence introduced by the parties makes my task more difficult.

[45] Considering all the circumstances, including Cheryl's failure to control her dogs was ongoing versus Matthew and Natasha's trespass was on a single occasion, together with the building of a fence could have resolved the issues, I award Matthew and Natasha the sum of $10,000 in total for general damages and aggravated damage.

[46] I further determine any damage for placing the dock on Matthew and Natasha's property, plus parking cars was an inconvenience at best, based on their evidence on the use of the property. For this, I award the nominal sum of $100.

[47] Further, I award Cheryl the sum of $1,000 in total for general damage and Matthew's aggravated damages. This action is especially egregious given Matthew's training. This award is against Matthew personally, as there is no evidence Natasha was present when this occurred or authorized Matthew's actions.

[48] The evidence is clear the parties' action or inaction were aggravating.

[49] The trespass to the dock is statute barred as the action was filed July 14, 2022, more than two years since the boards were propelled into Cheryl's dog run.

CONCLUSION

[50] The damages in the amount of $10,100 are awarded to Natasha and Matthew. Damages in the amount of $1,000 are awarded to Cheryl. After the set off is considered, damages in the amount of $9,100 are awarded to Matthew and Natasha.

[51] As there is a Rule 49 Offer to Settle (Exhibit S1) and Matthew and Natasha are more successful than the terms of the offer, I award double costs from and after October 30, 2023.

[52] Costs are always discretionary. I considered whether solicitor-client costs should be awarded. However, given the conduct of both parties throughout this lengthy personal dispute, such costs are not justified.

_____ J.