



WHAT ABOUT MY PETS?

The Link Between Relationship Breakdown and Pets

For many people, pets are considered part of the family and not mere items of personal property. However, in Saskatchewan, pets are defined as personal property according to *The Family Property Act*. When relationships break down, the spouse that has legal ownership gets to keep the pet. When an ownership dispute arises, courts have reiterated that they will not take a child custody approach. Instead, courts have weighed a series of factors to establish sole ownership for one spouse.

The factors the courts take into consideration are:

- Whether the pet was gifted by one spouse to the other
- Where the pet has been living since the spousal separation
- Which spouse was predominantly responsible for taking care of the animal and paying for its expenses
- The spouse's individual relationship with the pet

Spouses can protect against having a court determine ownership of a pet by coming to an agreement beforehand. This can be in the form of a pet provision in the separation contract or can be achieved through mediation. This can also be achieved by having a written agreement when the pet is brought into the relationship, with each party signing the agreement. While this is less than ideal, it will save time and money later on by not having to adjudicate the matter.

When there is a breakdown in a relationship, and spouses are not able to come to a mutual agreement with respect to their pet, in Saskatchewan, they can bring forward a claim to the courts for an interest in the pet. Before this claim can be brought forward, the parties in a relationship must first consider the length of their relationship to be eligible for a claim. Although the provinces differ, in Saskatchewan, if a couple is **not** married, they must have continuously been living together for a minimum of two years. If they are not considered to be in a spousal relationship according to *The Family Property Act*, they will not be eligible to bring forward a claim to the courts.

If a couple has not been in a spousal relationship according to *The Family Property Act*, they must divide any property according to which party brought items into the relationship. With respect to animals, if it was bought together during the relationship, the parties need to consider who the primary caretaker of the pet was, as well, as if the pet was a gift. If the pet was not a gift, having the pet's registration, and veterinary records could be considered by a court in determining ownership.

If an owner is worried about their pet's wellbeing in the unfortunate circumstance of an owner passing away, they can establish a pet trust. The owner would name a beneficiary who would receive the funds in the trust to be used for the care of the pet according to the owner's wishes.

Pets play an important role in the lives of their owners. Therefore, it is best to plan ahead and avoid leaving the final determination to the courts. If the dispute does find its way to the court, and the court cannot reach a decision, it may order the sale of the pet and the splitting of proceeds between spouses. The sale of a pet would not be in anyone's interest, and thus it is always prudent to think ahead.



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