

April 25, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

ORDER OF DISMISSAL

SUBJECT: Regional Animal Services of King County file no. **V19008981**

ALISON STOUT

Animal Services Enforcement Appeal

Activity no.: A19000039

Appellant: **Alison Stout**
12653 Avondale Road NE
Redmond, WA 98052
Telephone: (206) 579-7057
Email: equinetta@yahoo.com

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
21615 64th Avenue S
Kent, WA 98032
Telephone: (206) 263-5968
Email: raskcappeals@kingcounty.gov

On January 8, 2019, Regional Animal Services of King County (Animal Services) served a violation notice, by mailing a copy, certified mail, prepaid, return receipt requested, to Appellant's address. KCC 11.04.260.D. By law, the appeal was due February 1, 2019. Animal Services received the appeal on March 16, 2019. Animal Services moved to dismiss the appeal as untimely. We held a motion hearing on April 19, 2019.

In many scenarios, an examiner has a fair amount of discretion and flexibility. For example if an appeal is timely but inadequate in content, an examiner "may" dismiss the appeal, but alternatively "may" allow a party to clarify the appeal issues. KCC 20.22.090.B. Requiring clarification, instead of dismissal, is almost always the approach we choose in such a scenario. We would do so here if *content* were the shortcoming in this appeal.

However, untimely appeal statements are decidedly different. The examiner “shall” (not “may”) dismiss an untimely appeal. KCC 20.22.090.A. We do not have a lot of options in this scenario. Our high court has observed that while some statutes do require proof of actual service, if the legislature “had intended to require evidence of actual delivery, it could have said so expressly,” and held that mailing by certified mail to a valid address satisfied due process, even if the mail was returned unclaimed. *In re Marriage of McLean*, 132 Wn.2d 301, 306–07, 312, 937 P.2d 602 (1997).

As KCC 20.22.080.H instructs the examiner, when:

a person fails to timely deliver the appeal statement[, the] examiner does not have jurisdiction to consider the appeal and the decision of the department ... becomes final and unreviewable.

Accordingly, we DISMISS the appeal.

DATED April 25, 2019.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County’s final decision for this type of case. This decision shall be final and conclusive unless appealed to superior court by *May 28, 2019*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

DS/ld

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V19008981**

ALISON STOUT

Animal Services Enforcement Appeal

I, Liz Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **ORDER OF DISMISSAL** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED April 25, 2019.



Liz Dop
Legislative Secretary

Aseman, Mehdi Setareh

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Stout, Alison

Hardcopy