

May 13, 2021

**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

SUBJECT: Regional Animal Services of King County file no. **V21011659-A21000791**

IRINA LYCHIK

Animal Services Enforcement Appeal

Activity no.: A21000791

Appellant: **Irina Lychik**

[REDACTED]
Auburn, WA 98001

Telephone: [REDACTED]

Email: [REDACTED]

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

Overview

We granted Regional Animal Services of King County's (RASKC's) motion to dismiss Irina Lychik's appeal as untimely. Ms. Lychik moved for reconsideration, seeking reinstatement of her appeal or, in the alternative, a penalty reduction. Although we conclude again that we have no jurisdiction to consider her appeal—and thus no jurisdiction to order a reduction in the monetary penalty—we explain why this may be a scenario where RASKC should reduce the penalty.

Sequence

On February 15, 2021, via certified mail, RASKC issued a notice and order to Irina Lychik, regarding her dog, Ando. That document stated that any appeal had to be received by RASKC by **March 12, 2021** (bold in original), or else the notice and order would become a final determination. RASKC includes a copy of our *Hearing Examiner Guide: Animal Services Enforcement Appeals* in its packet, wherein we wrote:

How do you start your appeal?

People who receive a RASKC enforcement order may appeal to have the examiner hear their case. There is no appeal fee, but the following three requirements *must* be met:

1. **Timing.** The deadline to submit your appeal is 24 calendar days after RASKC *issues* its decision. When RASKC posts an order on a door or hands it directly to someone, the clock starts ticking that day. When RASKC mails an order, the clock starts ticking on the date RASKC mails it, *not* on the date you actually receive it.
2. **Delivery.** Getting your appeal statement to a post office by the deadline is *not* sufficient. RASKC must actually *receive* your appeal by the deadline (and mail delivery often takes several days). Untimely appeals are barred—there is no flexibility. This may not seem fair, but it is the law. You can submit your appeal via:
 - mail or in-person (check kingcounty.gov/depts/regional-animal-services.aspx for office hours) at 21615 64th Avenue S, Kent, WA 98032, or
 - email to RASKCappeals@kingcounty.gov (ask RASKC to confirm receipt).

...

.... If you are not sure about exactly what to say, make sure you still get *an* appeal, even if imperfect, delivered to RASKC by the deadline.

If you get your initial appeal to RASKC on time, the examiner has authority to later allow you, before the hearing, to modify or add to the issues you originally raised. But, the examiner has *no* authority to hear an appeal if your original appeal statement did not arrive at RASKC on time. **Whatever you do, make sure RASKC receives your appeal by the deadline!**¹

As no one was home when the Postal Service tried to deliver the package on February 19, it left the notice at the Lychick residences. The Lychick’s then waited almost two weeks to retrieve it on March 4, chewing up the majority of the appeal period. Ms. Lychick called RASKC after the appeal deadline ran out, and submitted her appeal on March 19, a week past the deadline. In her appeal she wrote that “we misunderstood the due date, thus postponing the delivery date,” and

¹ See <https://kingcounty.gov/~media/independent/hearing-examiner/documents/2021/RASKC-1-2021.ashx?la=en> at 1-2 (bold, underscore, and color in original).

that she was unaware of the option to email the appeal statement. RASKC moved to dismiss her appeal as untimely.

On March 23, we granted RASKC's motion to dismiss appeal. As an examiner retains (during the superior court appeal window) jurisdiction to reconsider a decision, we wrote that Ms. Lychick could file a motion for reconsideration by April 22. On the final day of the period, Ms. Lychick filed a motion, asserting that between March 10-20 they were experiencing flulike symptoms and, as a precaution, did not travel outside the house. RASKC filed an opposition, and we provided Ms. Lychick with the opportunity to reply; we did not receive a reply.

Analysis

The examiner shall dismiss an untimely appeal. KCC 20.22.090.A. As KCC 20.22.080.H states, where:

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.

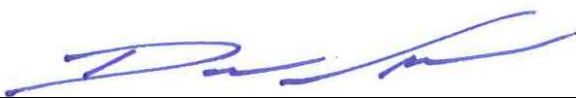
There have been scenarios where we have found unique circumstances such that we should read in an exception to KCC 20.22.090.A and KCC 20.22.080.H. This is not one of those cases. Here the Lychicks waited almost two weeks to pick up the notice. The notice and order had clear language about the due date and consequences of missing the due date. Our guide practically begs would-be appellants to get their appeals in on time, explains the consequences for failing to do so, and even provides email instructions to facilitate meeting that deadline. And then Ms. Lychick waited until after the appeal deadline (and thus after RASKC's notice and order became final and unreviewable) to call RASKC and see what she could do about it. We have empathy for her situation, but we will not revive her dismissed appeal.

In the alternative, Ms. Lychick requested a reduced penalty. We have no insight on the merits, beyond the two-line violation description in RASKC's notice and order and then Ms. Lychick's appeal statement. But in cases where we have jurisdiction and (after holding a hearing on the merits and considering all the evidence and argument) sustain a viciousness designation, we typically reduce the penalty where the violence happened despite, not because of, the owner's level of care, and where the owner takes steps after the fact to prevent a repeat performance.

Here, Ms. Lychick states that Ando is typically contained in a cage, but was loose on a playful snow day, and that (post-incident) they have purchased a training collar, are installing a fence, and will ensure that Ando remains contained or on a leash. If that is accurate, that sounds like a scenario where a penalty reduction seems warranted. Again, we do not know the facts, and we are not ordering anything, but Ms. Lychick may want to contact RASKC about a reduced penalty.

This will be our final word on the matter.

DATED May 13, 2021.



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 *June 14, 2021*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

DS/lo

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V21011659-A21000791**

IRINA LYCHIK

Animal Services Enforcement Appeal

I, Lauren Olson, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **ORDER** 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 May 13, 2021.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Lovell, Stacia

Hardcopy

Lychik, Irina

Hardcopy