

December 20, 2021

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

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

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V21012589-A21004980**

TREVOR LAUSH

Animal Services Enforcement Appeal

Activity no.: A21004980

Appellant: **Trevor Laush**

[REDACTED]
Enumclaw, WA 98022

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

FINDINGS AND CONCLUSIONS:

Overview

1. Regional Animal Services of King County (Animal Services) issued a violation notice to Trevor Laush regarding his cat. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny the appeal but reduce the penalty.

Background

2. Animal Services issued Trevor Laush a violation notice asserting that his cat, Carl, was trespassing on private property and running at large on multiple occasions on October 2, 3, and 4. Mr. Laush timely appealed. Ex. D9. Animal Services withdrew the running at large violation, leaving only trespassing.¹ We went to hearing on December 8.

Hearing Testimony

Testimony of John Pavlovich

3. Mr. Pavlovich testified that [Carl] has been trespassing on his property and defecating on his yard multiple times. Mr. Pavlovich spoke to Ms. Laush two or three times in the last year and a half; however, his requests to contain Carl did not work. He initially filed a complaint on September 28. Ex. D6.
4. On October 1, Animal Services issued Mr. Laush a warning for Carl trespassing on private property. Ex. D8. On October 2, 3, and 4, Mr. Pavlovich saw [Carl] in his yard again. He filed another complaint on October 5. Ex. D2. He also submitted videos of the incidents. Ex. D3.
5. Since filing the second complaint, Mr. Pavlovich acknowledged that the Laushes have been containing Carl. He has been happy with the results. He has seen Carl out only once after October 5.
6. When questioned how he knew it was Carl and not another neighborhood cat, Mr. Pavlovich testified that he knows what Carl looks like because he has seen him many times in the last couple of years. In one video, Mr. Pavlovich agreed it was too dark to identify the cat and Mr. Pavlovich might be mistaken. Mr. Pavlovich is not trying just to blame Carl, but that is the only cat he can identify.

Testimony of Trevor Laush

7. Mr. Laush testified that there are other cats in the neighborhood that roam around. The cat in the videos taken at nighttime is not Carl, as one of them has white feet and the other has stripes. Mr. Laush admits that the all-grey cat walking across in one daytime video is Carl; they had other people in his house that left the door open. Mr. Laush believes that Mr. Pavlovich is mistaking Carl for other neighborhood cats. Carl has not been out since that day and is not the cat in four out of the five videos.
8. Mr. Laush has made his kids aware of the importance of keeping Carl contained and they have done everything they can to prevent Carl from leaving their property.

¹ Enumclaw declares it unlawful for a cat to run at large within city limits, with all cats and other pets needing to be confined to the owner's premises or on a leash. EMC 7.01.040.A. But Animal Services' notice cited not a violation of EMC 7.01.040.A, but a violation of KCC 11.04.230.B. And KCC 11.04.230.B applies only to dogs.

Legal Standards

9. Animal Services asserts that Carl was trespassing, defined as a “domesticated animal that enters upon a person’s property without the permission of that person.” KCC 11.04.230.K.
10. We do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. For those matters or issues raised in an appeal statement, Animal Services bears the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed. KCC 20.22.080.G; .210.B.


Analysis

11. Mr. Laush agrees that the grey cat in the daytime video (a) is Carl, but disputes that the others are. On our initial review pre-hearing, they all appeared to be the same cat; the cat is about the same size and shape in all videos, and even walks an almost identical path across the Pavlovich property. However, re-analyzing the video after the hearing, we find Mr. Laush is definitely correct for two videos, and possibly correct on two more.
12. On closer inspection, videos (b) and (e) show a two-toned tabby with white on its legs; these are definitely *not* Carl. Videos (c) and (d) are too washed-out and monochromatic to really tell much; given that Animal Services bears the burden of proof, if the case came down to videos (c) and (d), we would find that Animal Services had not met its burden of proof.
13. However, Animal Services lumped all five of the alleged trespasses into a single violation notice, with a single \$50 trespass penalty. Mr. Laush does not dispute that Carl was the grey cat visible in (a), and the video is clear. That is sufficient to sustain the violation.
14. However, the Laushes have taken effective steps to contain Carl, something Mr. Pavlovich readily acknowledged and appreciated. We find a penalty reduction is warranted.

DECISION:

1. The running at large violation is withdrawn.
2. We deny the appeal as to the trespass violation but we reduce the penalty to \$25.

ORDERED December 20, 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 *January 19, 2022*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

MINUTES OF THE DECEMBER 8, 2021, HEARING IN THE APPEAL OF TREVOR LAUSH, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V21012589-A21004980

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Trevor Laush, and John Pavlovich verbatim recording of the hearing is available in the Hearing Examiner’s Office.

The following exhibits were offered and entered into the record by Animal Services:

Exhibit no. D1	Regional Animal Services of King County staff report to the Hearing Examiner
Exhibit no. D2	Online Complaint form of October 2, 2021 incident by John Pavlovich, dated October 5, 2021
Exhibit no. D3	Videos of “Carl” trespassing
Exhibit no. D4	RASKC investigation report no. A21004980
Exhibit no. D5	Notice of violation no. V21012589-A21004980, issued October 7, 2021
Exhibit no. D6	Online Complaint form of September 27, 2021 incident by John Pavlovich, dated September 28, 2021
Exhibit no. D7	RASKC investigation report no. A21004854
Exhibit no. D8	Warning Notice V21012569-A21004854
Exhibit no. D9	Appeal, received October 12, 2021
Exhibit no. D10	Map of subject area

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CERTIFICATE OF SERVICE

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TREVOR LAUSH

Animal Services Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** 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 December 20, 2021.



Jessica Oscoy
Office Manager

Eykel, Chelsea

Regional Animal Services of King County

Laush, Trevor

Hardcopy

Pavlovich, John

Hardcopy