

December 7, 2022

**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 nos. **V22013620 and V22013621**

VEARA BENHAM

Animal Services Enforcement Appeal

Activity no.: A22005220

Appellant: **Veara Benham**

[REDACTED]
Carnation, WA 98014

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

On October 5 Regional Animal Services of King County (RASKC) issued a notice and order. As that stated, any appeal had to be received by RASKC by October 30, or else the notice and order would become a final determination. That meshed with KCC 20.22.080.B, which requires appeals to be received within 24 days of the date the agency determination is issued, except that October 30 was a Sunday, so Ms. Benham actually had an extra day to appeal. Instead, she emailed her appeal—and even then only to us, not to RASKC—on Tuesday, November 1.

RASKC filed a motion to dismiss her appeal as untimely. We held a motion to dismiss hearing yesterday. Ms. Benham and Mr. Profitt explained that she was waiting on him to do an analysis of some video evidence and give her some commentary she could include in her appeal statement. And Ms. Benham said she was sick and did not know how to email an appeal.

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” (discretionary) 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” (mandatory) 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.

We have tried to avoid exactly the scenario that occurred here. We drafted a guide (which Ms. Benham received) to help nonlawyers navigate animal appeals. In that guide we explained the necessity of a timely appeal and provided the email to send that to:

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 <https://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).

In another part of the guide, we tackle the specific problem of someone not able to gather all their information before the appeal deadline (underline, bold, and purple in original):

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!**

Unfortunately, neither of those suggestions were followed, and as a result, Ms. Benham missed her deadline. By the end of October 31, V22013620 and V22013621 became final and unreviewable. We DISMISS Ms. Benham’s appeal.

That leaves two loose ends.

1. The \$1000 penalty associated with Rosie’s removal order in V22013621 only came due if the removal order itself was violated. Ms. Benham testified that she had earlier rehomed Rosie. If she can promptly provide RASKC with the new owner’s name and contact information, there is no \$1000 penalty to assess.
2. RASKC notified us during yesterday’s hearing that another violation notice was issued to Ms. Benham earlier this week. Ms. Benham should email raskcappeals@kingcounty.gov to submit an appeal, prior to that deadline listed in the notice. And she can even cc us on that, to create an additional record of the appeal having been timely sent.

DATED December 7, 2022.



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 6, 2023*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

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CERTIFICATE OF SERVICE

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VEARA BENHAM

Animal Services Enforcement Appeal

I, Jessica Oscoy, 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 December 7, 2022.



Jessica Oscoy
Office Manager

Benham, Veara

Hardcopy

Costa, Wanderson/Ahil

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Profitt, Philip