

June 13, 2023

**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

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file nos. **V23013932 and V23013933**

THERESA [LAST NAME REDACTED]; RUSSELL CHENIER
Animal Services Enforcement Appeal

Activity no.: A23000391

Appellant: **Theresa [Last Name Redacted]¹**

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. This appeal involves violation notices issued for an unlicensed dog running at large and biting a passerby. 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 uphold the violations but reduce the penalty for Theresa.

¹ Because this case involves an appellant who has been involved in a domestic violence situation and is concerned for her safety, we have redacted her name and contact information and will refer to her by her first name only.

Background

2. On January 25, 2023, Regional Animal Services of King County (Animal Services) issued violation notice V23013932-A23000391 to Russell Chenier for his dog, Rowan, being unlicensed unaltered, and his other dog, Sheba, being unlicensed unaltered and needing to be confined. Ex. D5. Animal Services also issued violation notice V23013933-A23000391 to Theresa for Sheba running at large and qualifying as vicious the day before. Ex. D6.
3. Mr. Chenier worked with Theresa on an appeal. Ex. D8. We went to hearing on May 31.

Hearing Testimony

Andrew Paige Testimony

4. Andrew Paige testified that he has had two prior encounters with Mr. Chenier's dog [Sheba] while walking to or from work. The first time, Sheba ran off the property when she was a puppy, which Mr. Paige did not take issue with. The second time, Sheba came out through the fence and almost forced Mr. Paige into the street. Sheba's property is poorly fenced off; there are gaps that Sheba can get through.
5. On January 24, Mr. Paige was walking home on the opposite side of the street from Sheba's house. Sheba ran across the street and up to Mr. Paige and started barking. At first Sheba only nipped at Mr. Paige, but then she actually bit him. Ex. D4. Mr. Paige shouted, and Sheba ran off.
6. Mr. Paige walked up to the house and spoke with the property owner. The property owner said that Sheba belonged to tenant Russell Chenier, and he gave Mr. Chenier's phone number to Mr. Paige. Mr. Paige walked home, and his brother took him to urgent care.
7. Mr. Paige called Mr. Chenier, who believed Mr. Paige was someone named Tyler who was out to get him. On the phone and over text, Mr. Chenier first claimed it was not his dog. Mr. Chenier later texted that it was his dog, but he disputed that the dog was not out of the women's [Teresa and her sister's] sight and his dog has baby teeth.
8. Mr. Paige went back to Sheba's house to see if Mr. Chenier was home. The property owner said he was not home. When Mr. Paige went to the property right after the bite and after urgent care, he only saw the property owner.

Theresa Testimony

9. Theresa testified that she was renting a room in the house for only a couple months before the incident. Mr. Chenier's dogs were always running free. Mr. Chenier was a friend of a friend.
10. Theresa went shopping the day of the incident, but her sister was home. When Theresa returned, an Animal Services Officer was at the house. Theresa listened as the Officer

spoke with Mr. Chenier on the phone. The property owner was also on the porch. She had no clue what had happened. The Officer said Theresa's sister would be getting a ticket because she was home with Sheba. Theresa told the Officer to ticket her instead of her sister because her sister can get confused. Theresa did not know Mr. Paige was bitten until the next day. Theresa was confused and she was going through a domestic situation. During our hearing, Theresa apologized to Mr. Paige.

11. When Mr. Chenier came home and saw the violation notices, he told Theresa to write down his appeal. She was coerced into writing something she did not want to write.

Chelsea Eykel Testimony

12. Sgt. Eykel testified that Mr. Chenier will not return her phone calls now. She clarified that the incident occurred the day before Animal Services arrived at the property, at which point Theresa said she did not know that her sister had let the dogs out to go potty.

Legal Standards

13. In V23013932, Animal Services asserts that, as of January 24, neither Rowan nor Sheba was licensed, in violation of KCC 11.04.030.A, which requires all dogs eight weeks old and older that are harbored, kept or maintained in King County be licensed and registered.
14. In V23013933, Animal Services asserts that, while under the care of Theresa on January 24, Sheba:
 - A. ran at large, meaning “off the premises of the owner and not under the control of the owner, or competent person authorized by the owner, either by leash, verbal voice or signal control,” with “under control” defined as “either under competent voice control or competent signal control, or both, so as to be restrained from approaching any bystander or other animal and from causing or being the cause of physical property damage when off a leash or off the premises of the owner.” KCC 11.04.020.W, .AA; .230.B;
 - B. bit a person and qualifies as “vicious,” defined as, “having performed the act of, or having the propensity to do any act, endangering the safety of any person, animal or property of another, including, but not limited to, biting a human being or attacking a human being or domesticated animal without provocation,” with the violation itself framed as “Any animal that has exhibited vicious propensities and constitutes a danger to the safety of persons or property off the animal’s premises or lawfully on the animal’s premises.” KCC 11.04.020.BB; KCC 11.04.230.H.
15. 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

16. On January 24, Sheba escaped off the property and bit Mr. Paige, who then filed a complaint. Ex. D3. When the Animal Services officer came out *the next day*² and told Mr. Chenier he would be getting a confinement order, Mr. Chenier protested that the Constitution allowed him to see a magistrate. (By law, appeals of confinement orders go to the examiner, not to a magistrate.) Theresa explained to the officer that another elderly woman (her sister) was the woman who had let Sheba out the previous day and then lost sight of Sheba. When the officer explained that he would issue the violation notice to the person who let Sheba out, Theresa asked that it be issued in her name; the officer complied. Ex. D2 at 003, nn. 4-5.
17. That was the correct process. Animal Services issues violation notices like running at large and viciousness to the person responsible for the animal at the time (here, Theresa's sister, with Theresa asking that she be substituted in for her sister) of the violation. Ex. D6 (V23013933). And Animal Services issues the animal owner licensing violations and confinement orders, since it is the owner who is responsible for licensing and who has to follow the confinement terms (secure animals in a padlock fenced area when unattended outside, only allow the animal off the property on a leash, microchip the animal, and vaccinate the animal). *See* Ex. D5 (V23013932).
18. Mr. Chenier got Theresa to file an appeal, using a strange form he apparently got off the internet. Ex. D8. It did not mention V23013932 or V23013933, but listed the activity number, A23000391. Because both violations have the same activity number, we interpret that as a timely appeal of *both* violations. However, the appeal did not list any *substantive* errors in the violation notice or specific reasons to overturn anything (like the dogs were actually licensed on January 24 or Sheba did not run at large on January 24 or bite anyone, or something else). We required an amended appeal statement.
19. Neither Mr. Chenier or Theresa filed an amended appeal statement, but Theresa appeared at our hearing, and we let her offer her testimony and make her arguments. Theresa did not dispute that Sheba ran at large, bit Mr. Paige, qualified as vicious, or any of Sheba's confinement terms. She only disputed that she should be the party responsible for Sheba's violation and the monetary penalty. Mr. Chenier elected not to participate and challenge anything.
20. As the officer initially explained, it would have been Theresa's sister who would have been served with the running at large/vicious animal violations, because she was the one who let Sheba out on January 24. Yet because Theresa asked the officer to list her instead of her sister, Animal Services accommodated. We uphold the violation against Theresa but we reduce the penalty.

² Theresa originally confused the January 24 incident for the January 25 visit.

21. Because Mr. Chenier did not file an amended appeal statement or appear at hearing to dispute anything, he is on hook for the licensing penalties (\$375) and for keeping Sheba in compliance, namely:
 - A. Secure Sheba in a fenced area suitable for her size when Sheba is unattended and outside the home. Lock all passages with a padlock to prevent accidental release.
 - B. Restrained Sheba using a leash with a collar or harness when taking it off your property. Your leash can extend no longer than 8 feet in length. A competent and capable person must handle Sheba at all times when attended outside.
 - C. Microchip Sheba and provide the microchip number to King County animal licensing office (206–296–2712) by **June 27, 2023**.
 - D. Vaccinate Sheba for rabies, if not current.
22. If Sheba runs at large again, it would not be a \$50 running at large violation, but a \$500 vicious animal at large violation. And failing to follow the above confinement terms could conceivably result in Sheba's removal from the County.

DECISION:

1. We sustain violation V23013932 issued to Mr. Chenier, along with the \$375 penalty.
2. We sustain violation V23013933 issued to Theresa, except that we reduce Theresa's penalty to \$150.

ORDERED June 13, 2023.



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 *July 13, 2023*. 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 MAY 31, 2023, HEARING IN THE APPEAL OF THERESA;
RUSSELL CHENIER, REGIONAL ANIMAL SERVICES OF
KING COUNTY FILE NOS. V23013932 & V23013933**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Andrew Paige, and Theresa. A 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 RASKC investigation report no. A23000391
- Exhibit no. D3 Online Complaint form of January 24, 2023, incident by Andrew Paige, dated January 24, 2023
- Exhibit no. D4 Photograph of Mr. Paige's injury and torn pants
- Exhibit no. D5 Notice of violation no. V23013932-A23000391, issued January 25, 2023
- Exhibit no. D6 Notice of violation no. V23013933-A23000391, issued January 25, 2023
- Exhibit no. D7 NVOC mailing/tracking history
- Exhibit no. D8 Appeal, received March 13, 2023
- Exhibit no. D9 Map of subject area

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file nos. **V23013932 and V23013933**

THERESA; RUSSELL CHENIER
Animal Services Enforcement Appeal

I, Lauren Olson, 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 June 13, 2023.



Lauren Olson
Legislative Secretary

Chenier, Russell
Hardcopy

Eykel, Chelsea
Regional Animal Services of King County

Paige, Andrew
Hardcopy

Theresa
Hardcopy