

August 23, 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

ORDER OF DISMISSAL

SUBJECT: Regional Animal Services of King County file no. **V23014117-A23002430**

JACQUEL WALKER

Animal Services Enforcement Appeal

Activity no.: A23002430

Appellant: **Jacqueline Walker**

[REDACTED]
Covington, WA 98042

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: raskappeals@kingcounty.gov

On April 11, 2023, Regional Animal Services of King County (Animal Services) issued a notice and order. As that document stated, any appeal had to be received by Animal Services by May 6, 2023, or else the notice and order would become a final determination. That was consistent with KCC 20.22.080.B, which requires appeals to be received within 24 days of the date the agency determination is issued. Instead, Jacquelin Walker emailed her appeal on July 20, 2023. Animal Services filed a motion to dismiss the appeal as untimely.

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. 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 just the scenario presented today by writing in our *Hearing Examiner Guide: Animal Services Enforcement Appeals*, a guide Animal Services attaches to its notices and orders, including the version posted on Ms. Walker’s door on April 11:

How do you start your appeal?

People who receive a RASKC [Animal Services] 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 [Animal Services] *issues* its decision. When [Animal Services] posts an order on a door or hands it directly to someone, the clock starts ticking that day. When [Animal Services] mails an order, the clock starts ticking on the date [Animal Services] 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. [Animal Services] 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 [Animal Services] by the deadline.

If you get your initial appeal to [Animal Services] 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 [Animal Services] on time. **Whatever you do, make sure RASKC receives your appeal by the deadline!**¹

That did not happen here. While understandable, Ms. Walker’s explanation for why she waited two and a half months past the filing deadline to lodge an appeal falls well short of the mark. Maui’s viciousness designation and compliance order—including only letting Maui unattended in the fenced yard if all passages are padlocked—is now a fixed fact.

Before closing, we offer some commentary on what a viciousness designation means in King County. In normal conversation, we speak of “vicious” as meaning malicious, spiteful, or morally depraved, and it includes only intentionally hurtful acts. However, the controlling legal definition, had we gone to a hearing, would have been whether Maui performed an act endangering the safety of any person or animal without provocation and whether Maui constitutes a danger. KCC 11.04.020.BB; KCC 11.04.230.H. There is nothing in there about an animal’s state of mind or even whether it intended to hurt anyone.

If we had jurisdiction to hear this dispute, we could have only decided whether Maui meets the *code* criteria, not whether Maui matches what most people mean when they use “vicious” in everyday speech. And correspondingly, the viciousness designation we uphold today is only a finding that Maui meets specific County code criteria, not that Maui is “vicious” in the sense people typically use that word.

We DISMISS Ms. Walker’s appeal.

DATED August 23, 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 *September 22, 2023*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

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).

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014117-A23002430**

JACQUEL WALKER
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 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, through Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED August 23, 2023.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Smith, Claudia

Hardcopy

Walker, Jacquelin

Hardcopy