

Landlord May Be Liable After Tenant's Dogs Attack Deputy During Eviction

New York. A jury must determine whether a landlord knew its tenant harbored dangerous pit bulldogs in her apartment and whether a sheriff's deputy who was attacked by the dogs during an eviction assumed risk of injury by nature of his job.

The landlord obtained an eviction order from the court to evict a tenant. One of the deputies tasked with evicting the tenant arrived before his partner and entered the apartment building to determine whether the tenant still resided there.

The deputy found the tenant's apartment door open, knocked on it and announced himself. The tenant appeared with her two pit bulldogs, and the dogs attacked and injured the deputy.

The deputy sued the landlord for his injuries. The landlord filed a motion for summary judgment, claiming the deputy failed to prove the landlord knew the tenant kept the dogs in her apartment and that the dogs had "vicious propensities."

The trial court refused to dismiss the case, and the landlord appealed. The appellate court affirms the decision, saying the case will go to trial.

In order to recover against a landlord for injuries caused by a tenant's dog under a strict liability theory, the injured deputy must establish the landlord had notice that a dog was being harbored on the property. In addition, the deputy must prove the landlord knew or should have known the dog had vicious propensities. The deputy also must show that the landlord retained sufficient control over the property to demand removal or confinement of the dog.

The appellate court agrees the deputy submitted sufficient evidence to raise a triable issue of fact as to whether the landlord knew the tenant was harboring a vicious dog in her apartment.

The case will proceed to trial where the burden will be on the deputy to prove the landlord was aware the tenant had the dogs in her apartment and knew or should have known the dogs were dangerous.

Lesson: The landlord could be liable here if the jury finds it knew about the dangerous dogs and had sufficient control over the property to compel the tenant get rid of them before the attack. The landlord may not be liable if the jury determines the deputy assumed the risk as part of his job. It's worth noting that this defense is not available to every person injured by a dangerous dog under similar circumstances. Landlords should not allow tenants to have dangerous animals in their apartments. They should evict tenants who keep such pets or force them to remove the animals.

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