

Animal Cruelty Hearing in Minneapolis 02/07/2011

A hearing officer for the city of Minneapolis will decide today whether to authorize the return of a puppy to a woman who attempted to mail the puppy to Georgia in a taped cardboard box. What legal standard will guide the hearing officer's determination? What rules of evidence will guide the proceeding?

Minnesota statutes give hearing officers complete discretion whether to return an animal to a person claiming an interest in an animal that has been seized pursuant to a cruelty investigation:

Upon request of a person claiming an interest in the animal . . . a hearing must be held. . . to determine the validity of the seizure and impoundment. . . The hearing officer may return the animal upon finding that: 1) the animal is physically fit; and 2) the person claiming an interest in the animal can and will provide the care required by law for the animal. Minn. Stat. §343.235 Subd. 3(b)(c).

As to the first factor, by all accounts, the puppy is reported to be in good health. The second factor requires the hearing officer determine if the woman "can and will provide the care required by law for the animal." As a resident of Minneapolis, she is legally required to provide care mandated by Minneapolis ordinance. As a resident of Minnesota, she is legally required to provide the care mandated by state statute.

With respect to the determination of whether the woman "can" provide care required by law, the hearing officer may consider financial resources necessary to provide food and veterinary care, housing resources necessary to provide shelter, and intellectual ability to understand and comply with state and local laws on keeping animals.

The determination of whether the woman "will" provide the care required by law could be informed by consideration of licensure records of current or former pets, veterinary care records, or records of current or prior violations of local ordinances or state statutes related to keeping animals.

The hearing officer may give legal weight to any evidence that possesses “probative value commonly accepted by reasonable prudent persons in the conduct of their affairs.” Minn. Stat. § 14.60. This is a more relaxed standard of evidence than legal proceedings such as criminal trials that must comply with the Minnesota Rules of Evidence.

If the officer finds the woman can or will not provide the puppy the care required by law and does not authorize the return of the puppy, the woman has a right to directly appeal the decision to the Minnesota Court of Appeals. The cost to file the appeal is \$550; however, the filing fee may be waived upon petition to the court and a finding by a judge that 1) the petitioner is indigent and 2) the appeal is not frivolous. Minn. Stat. § 563.01.