Animals and Pets in Judicial Rulings of English Courts

In this work, I am going to deal with several cases concerning rulings about animals and pets in England. I have chosen three different cases that I found the most interesting.

The first case is Welsh v. Stokes. On 31 July 2001, the claimant, Aimee Welsh, who was 17 years old at the time, was riding a 9 year old horse called Ivor on a road in Cornwall, England. She fell off the horse and suffered a serious head injury. She has no memory of the accident.

She had been working at the defendant’s yard as a trainee for almost a year, and though there were some doubts as to her riding abilities, the judge found that she was able to ride a “sensible horse”. Ivor was considered as a sensible horse with no history of misbehavior.

There were three witnesses of the accident, Mr. Wragg, who was travelling by car with his wife, Mrs. Wragg, and the other was an unidentified man who did not remain on the scene or leave his address. Mr. Wragg or his wife had not seen the accident, but they claimed that the other man had told them that he had. Mr Wragg said that the other man had said that "the horse had reared up, then the girl had fallen off and the horse had fallen onto her."

The claimant had issued these proceedings claiming that the accident was caused by the negligence of the defendants.

There was a trial on the issues of liability. In a judgment given on 19 October 2006, Judge Tyzack QC dismissed the claim in negligence. An essential element of his reasoning was his decision under the Civil Evidence Act 1995, to accept the reliability of the hearsay evidence given by Mr Wragg. Without that evidence, the claimant could not have proved how the accident had occurred and the judge would have been bound to dismiss the claim.

The judge said, that the hearsay evidence was the greatest difficulty in this case. According to the fact that the horse was considered to be sensible and had not caused any harm before, the defendants could not have known that the accident could happen. The claimant was able to ride a horse by herself.

On the appeal, the case was decided by three judges, Lord Justice Richards, Thomas and Dyson. They have decided to dismiss the appeal.

The other case I have decided to write about is Guilford Borough Council v. Hein.

Dr. Helen Hein, who is now aged 76, has lived at Amberwell, Newlands Corner, near Guildford since December 1963. Those are freehold premises of an area of about 1.9 acres, which in were described as including a house used to house dogs, together with ten to twelve sheds or pens in which dogs were also kept.

Since about 1965 Dr Hein has kept German Shepherd dogs on the premises. At one time she had as many as 140 and in 1999 about 100. In February 2001 there were 48 dogs on the premises. The court has been told that there are now eleven adults and four puppies.

Over a period of more than 20 years Dr Hein has been in trouble, much of it serious, with Guildford Borough Council (the responsible local authority), the Royal Society for the Prevention of Cruelty to Animals and the Royal College of Veterinary Surgeons. She has already been convicted, and it will be necessary to consider those convictions and other matters.

In August 2003 there expired two orders disqualifying Dr Hein from having custody of dogs, the result of which was that the Council became liable to return to her some 26 dogs which they had removed from her custody in December 2001.

This case is actually an appeal given by the Council, which would avoid Dr. Hein to get the dogs back. The Councils arguments were, that if Dr. Hein got the dogs to her custody again, it would lead to her commission of further offences.

In the end, the case was decided by Lord Justice Waller and Clarke. They have dismissed the appeal under the condition, that Dr. Hein will have to consider the number of the dogs which will be under her custody on the premise.

The last case I was concerned with is McKenny v. Foster Partnership. Foster partnership, the defendant farmers, owners of a cow which has escaped on 27th April 2002. At 9:25 pm, there was a tragic motor car accident on the A614 Driffield Bypass near Bridlington. A Vauxhall Vectra driven by the first claimant, Helen McKenny, collided with a cow which had escaped and strayed onto the road, upon which at the moment of collision it was quite stationary. Derek Shaw, Ms McKenny's passenger and partner, was killed, as was the cow. Ms McKenny was injured. She and Derek Shaw's estate bring this claim against the defendant farmers, whose cow it was.

At the time of the accident, it was dark. Ms McKenny was driving within the speed limit. A defence case that her negligence contributed to the accident was summarily rejected by HH Judge Cockroft, who heard and decided the claim in the leeds country court on 15th May 2007.

The claimants for their part contended that the cow's escape resulted from negligence of the defendants.

Sections 1 to 6 of The Animals Act 1971 have the heading "Strict liability for damage done by animals". Section 1 provides that sections 2 to 5 replace rules of common law imposing strict liability in tort for damage done by an animal on the ground that the animal is regarded as *ferae naturae* or that its vicious propensities are presumed to be known.

At the time of the accident, the cow was separated from her calf and that was considered as a reason for her escape. Her maternal instincts had made her a wild animal, but this fact was unfamiliar to the defendants.

They were also unfamiliar with the ability of the cow to escape, because she was as always closed in her yard and she has never shown any effort to escape before.

In addition to this, the farm of the Fosters was 100 yards along the highway, so they could not have known that the cow could possibly get there and cause any accident.

According to these facts, the judge accepted that the defendants were not liable for the cow’s escape and they were also not liable for the accident that happened to Ms McKenny and her partner.