

Court of Appeals, State of Michigan

ORDER

Donald Stuphin v Melanie Kathleen Emler

Docket No. 331027

LC No. 15-002165-NO

Kirsten Frank Kelly
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the Motion for Immediate Consideration is GRANTED.

It is further ordered that, pursuant to MCR 7.205(E)(2), the December 17, 2015 order of the Wayne Circuit Court is REVERSED. No evidence shows that the defendant landlord had knowledge of the dog's vicious proclivities before the dog bite, *Feister v Bosack*, 198 Mich App 19, 23; 497 NW2d 522 (1993) (citations omitted), and the ordinance at issue cannot otherwise impute this knowledge where it does not apply to the defendant landlord and no evidence otherwise showed that the defendant landlord knew the dog was a pit bull, *Szkodzinski v Griffin*, 171 Mich App 711, 713; 431 NW2d 51 (1988). Further, there is no genuine issue of material fact that the defendant landlord lacked control over the premises or other capability to remove or confine the animal where she did not learn of the dog until five days before the dog bite occurred and the tenant otherwise maintained exclusive control of the premises. *Feister*, 198 Mich App at 23; *Ann Arbor Tenants Union v Ann Arbor YMCA*, 229 Mich App 431, 443; 581 NW2d 794 (1998).

This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

APR 07 2016

Date


Chief Clerk