

BRINGING REX HOME A VETERINARIAN/BOARDING KENNEL'S RIGHT TO HOLD YOUR PET BECAUSE OF AN UNPAID BILL

By: The Association of the Bar of the City of New York Animal Law Committee

When a pet is placed in the custody of a boarding kennel or veterinary hospital, or receives medical treatment from a veterinarian, owners may sometimes find themselves faced with a bill they are unable to pay. In such a situation, owners may be informed by the veterinarian/boarding kennel that their pet will not be returned to them until the bill is paid. Owners may even be informed that their pet will be sent to the pound in the event of non-payment. The purpose of this pamphlet is to outline an owner's rights under New York law in such situations. The following analysis applies not only to veterinarians, veterinary hospitals, and boarding kennels, but to any person who treats, boards or cares for animals, including stable owners or operators.

Can a veterinarian/boarding kennel refuse to return your pet to you in the event of non-payment of a bill?

- Yes. Under New York law, a veterinarian/boarding kennel has what is known as a possessory lien upon an animal for the cost of care. Thus, the veterinarian/boarding kennel may refuse to return an animal in its possession until the bill for care and treatment is paid.

May a veterinarian/boarding kennel send your pet to the pound if the bill remains unpaid?

- Yes, a veterinarian/boarding kennel may deliver your pet to any duly incorporated society for the prevention of cruelty to animals, any duly incorporated humane society having facilities for the care and eventual disposition of such animals, or in the case of dogs, cats or other small animals, the pound **but only** if the veterinarian/boarding kennel follows specific steps. Furthermore, if the veterinarian/boarding kennel follows these steps, you may retrieve your pet within a certain time period, before your pet is sent to one of these designated entities.

Thus, under New York law, if a bill remains unpaid and the veterinarian/boarding kennel wishes to place your pet in the care of the Animal Care Centers of NYC ("ACC"), the American Society for the Prevention of Cruelty to Animals ("ASPCA") or another humane society or pound, the veterinarian/boarding kennel must first fulfill the requirements of sections 331 and 332 of the New York Agriculture and Markets Law as outlined below.

What steps must the veterinarian/boarding kennel take?

- Before an animal in the possession of a veterinarian/boarding kennel may be sent to the ACC, ASPCA or other humane society or pound, the animal must first be "deemed abandoned" as defined under section 331 of New York's Agriculture and Markets Law. In order for this to occur, the veterinarian/boarding kennel must first send a "notice" letter to the owner. Generally, this letter will be sent when a bill remains unpaid or when an animal is simply abandoned at the veterinarian/boarding kennel and the facility wishes to dispose of the animal.

How must the "notice" letter be sent?

- The veterinarian/boarding kennel must send a letter, by registered mail, to the last known address of the person who left the animal.

What must the "notice" letter say?

- If you left your pet with the veterinarian/boarding kennel for a specified period of time (for example, boarding for a week) and the animal is not removed by the agreed upon date, the letter must state that the animal will be "deemed abandoned" 10 days after the "notice" letter is sent.

If the animal was left with the veterinarian/boarding kennel for an unspecified time period, the letter must state that the animal will be "deemed abandoned" 20 days after the "notice" letter has been sent.

What else must the "notice" letter say?

- Under New York case law, the "notice" letter must also indicate that this is the last opportunity you have to retrieve your pet before the veterinarian/boarding kennel disposes of your pet in accordance with New York law. If the letter does not state this information it will not be sufficient for the purposes of the New York statute.

What if the letter also includes the bill for payment?

- New York case law indicates that if the "notice" letter also includes a claim for professional services, the veterinarian/boarding kennel may not dispose of the animal in accordance with New York law unless the veterinarian/boarding kennel attaches a complete copy of sections 331 and 332 of New York's Agriculture and Markets statute to the letter.

Can I recover my pet upon receiving the letter?

- Yes. You may recover your pet from the veterinarian/boarding kennel after the letter has been sent, but before the relevant time period has expired. New York law requires that the veterinarian/boarding kennel must return the animal to you during this period upon request, even if the bill remains unpaid. You will, however, remain liable for the unpaid bill.

It is important to remember that an animal left with a veterinarian/boarding kennel may not be placed in the care of the ACC, ASPCA or other humane society or pound until the above procedure, and time limits, have been complied with. Once the relevant time period has passed, be it 10 or 20 days, the animal will be "deemed abandoned" under the law.

What happens to your pet once the time period has run and it is "deemed abandoned"?

- Once your pet is "deemed abandoned"—that is, the 10 or 20 day period has run following the sending of the "notice" letter by registered mail—the veterinarian/boarding kennel may, after certain further requirements discussed below are met, place the animal in the care of the ACC, ASPCA or other humane society or pound.

Does the veterinarian/boarding kennel have to do anything before sending your pet to the ACC, ASPCA or other humane society or pound?

- Yes. Under New York law, if the veterinarian/boarding kennel chooses to send the animal to the ACC, ASPCA or other humane society or pound, it must, on the day of delivering the animal to such third party, notify the person who placed the animal with the veterinarian/boarding kennel of the name and address of where the animal is sent. This second "notice" letter must be by registered mail to the last known address. Furthermore, the veterinarian/boarding kennel should inform the ACC, ASPCA or other humane society or pound that the animal is "deemed

abandoned" and, consequently, the five day limit before euthanasia (which is discussed below) applies, as opposed to the 48 hour time limit which applies to stray dogs and cats in New York City.

What happens to your pet once it is sent to the ACC, ASPCA, or other humane society or pound?

- You may reclaim your pet from the ACC, ASPCA or other humane society or pound, but if your pet is not claimed within five days after being delivered to such third party, the animal can be placed for adoption or euthanized.

The five day limit will start to run on the day your pet is sent to the ACC, ASPCA or other humane society or pound, which is the same day the second "notice" letter is sent, and not on the day you receive the second "notice" letter. Consequently, it is very import to contact the ACC, ASPCA or other humane society or pound the moment you receive the second "notice" letter.

If your pet is sent to the ACC, ASPCA, or other humane society or pound must you still pay the original bill?

- You will remain liable for the unpaid bill regardless of whether the animal is sent to the ACC, ASPCA, or other humane society or pound, is euthanized or adopted.

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