

Could Fido Take a Bite Out of Your Profits?

By Laura Williams-Tracy

You've probably heard plenty of man-bites-dog stories.

But the unexpected is just as likely to happen in self storage when man's best friend takes up residence and risk becomes hard to muzzle.

Consider the scenario that happened to Devon Self Storage, an Emeryville, California-based self storage business that owns or manages some 50 properties nationally.

In 2004 a tenant showed up at a Devon-managed facility after-hours and knocked on the door of the resident manager's apartment. The manager asked the tenant to wait outside, telling him there was large dog in the apartment. Ignoring the warning, the tenant entered the manager's apartment and was bitten by the growling dog.

"He was uninvited and warned to stay out and yet he proceeded to enter the apartment," says Jeff Humphrey, senior vice president of asset management for Devon Self Storage.

Humphrey, who has managed risk for Devon for two decades, urged the company's insurance carrier to fight the claim. The adjuster initially wanted to settle with the tenant for \$250,000. Unbeknownst to Humphrey and his company, the insurance adjuster did finally settle with the customer for \$100,000.

"Just because you have general liability insurance, that doesn't give the insured who pays the premiums the right to say when to settle or not settle or for how much," Humphrey says. "The insurance carrier settled with little input from us and never told us of the settlement details."

Even when the tenant was paid, the issue wasn't over.

When it came time for Devon to renew its liability coverage for the 50 properties it oversees, insurance carriers looked to the company's loss history. That's when

Humphrey learned of the large payout, and the hit to his company's insurance rating. Devon's premiums went up. The risk is spread across the numerous properties Devon owns and manages so Humphrey says it's not possible to know how much was prompted by the dog bite claim, but it was certainly a factor in Devon's overall premiums in the years following the settlement.

Dogs played a much larger role in the early years of the self storage industry in the 1970s and 1980s than today. Before the days of keypad access, managers were more likely to live onsite to provide customers with off-hours access to their property, and those managers often had a pet. Before the days of sophisticated security systems, many storage facilities hired guard dogs to patrol the grounds at night.

Claims involving dogs are not uncommon

Scott Lancaster, a compliance officer with Deans & Homer, which provides insurance to the self storage industry, says claims involving dogs on self storage properties aren't uncommon. He's working on two cases now.

In one case, a dog belonging to the property owner's wife was visiting the storage facility and came out from a back office and bit a customer on the leg. Lancaster says it's a valid claim and expects to pay the victim damages.

The other current case involves a resident manager's dog. The customer came into the business through an improper entrance and the manager's Labrador came out to see the customer and frightened him but never touched him. The customer left and Lancaster says can be seen on video surveillance unloading possessions at his unit. Months later the customer made a claim that he injured his neck trying to escape from the dog and is asking for \$250,000 in damages.

Lancaster says he hopes having video evidence of both the encounter with the dog and the customer's subsequent normal behavior will enable him to get the case dismissed.

"It's better not to have that extra risk around," Lancaster says of dogs on site. "If the dog bites, someone's going to be looking for their pound of flesh."



In most states the owner is liable for whatever injuries are caused by a dog, says Carlos Kaslow, the Self Storage Association's general counsel.

Some states have what is called a one-bite rule that essentially entitles every dog to bite one person before it is considered a hazard. But once the dog has bitten once, the owner is responsible because he knows it can happen.

But not every jurisdiction operates this way, Kaslow says. The law tends to favor humans over animals, and dog owners have an obligation to ensure their dog does not harm others.

"As a practical matter dogs probably do create some additional risk but it's a very insurable risk on your general liability insurance policy. From an operator's standpoint, you have to weigh the modest amount of liability against the well-being of your site manager."

Mike Rice, claims manager for self storage insurance company MiniCo Inc., says insurance claims regarding dogs don't only arise from bites. In one recent case, a manager's personal pet jumped on a customer and made her fall and she made a claim. Other times customers have tripped over dogs or just been startled and fallen down.

Rice says insurance coverage for a dog on commercial property can become an issue depending on the size of the damages alleged. Attacks that cause broken bones, permanent scars or harm to a child can be large and cause the insurance carrier to question what commercial purpose a dog had on commercial property.

"The carrier may argue there is no coverage since it's your personal dog and not part of the business," Rice says. "There's no coverage because there's no commercial reason for the dog to be there."

Lancaster says rates don't automatically go up after a dog bite claim, but the underwriter will measure the potential for the risk to occur again.

"You can't charge enough for something that has a high probability of happening again. We don't particularly want dogs as security features anymore because we don't feel they have value that translates to the risk is worth the reward."

Lancaster says self storage employees or owners involved in a dog bite case should see if their surveillance cameras captured the incident, which will enable adjusters and even a jury to assess how bad the injury was at the time. It's also valuable for everyone involved to make notes at the time of the incident about what happened.

Humphrey, of Devon, says he's also taken a new approach with his insurance carrier.

While he can't make the final decision regarding claims, he says he does now proactively manage insurance claims,

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logging them in and tracking them and following up with the insurance carrier to determine their disposition while providing additional information.

“You don’t have the final say,” Humphrey says. “The insurance company has that right. But you can be a partner with your insurance carrier and provide reports and documents that make good sense. You are out of the picture unless you opt to stay involved.”

The experience was a lesson from the school of hard knocks, Humphrey says, and it has changed the way Devon views the risk posed by on-site pets.

Day managers are not allowed to bring pets on site.

Resident managers now must assume some of the risk for themselves by taking out a renter’s policy on the contents of their on-site apartment. That policy covers actions by the manager’s pets. Humphrey says resident managers are required to keep a current policy on file with corporate headquarters and to name Devon as an additional insured party. The renter’s policy makes Devon’s general liability policy secondary to the renter’s policy.

“If you’ve got that big Rotweiler who’s grinding his teeth and you can’t get an insurance policy on it, then you probably can’t get a job with us.” ❖

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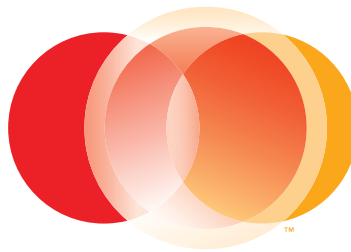
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