

**BETWEEN**

**AFJ Ltd**

APPLICANT

**AND**

**JKB Insurance Ltd**

APPLICANT'S INSURER

**AND**

**ZUM**

RESPONDENT

Date of Order:

20 September 2013

Referee:

Referee MacPherson

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**ORDER OF THE DISPUTES TRIBUNAL**

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**The Tribunal hereby orders that ZUM is to pay to JKB Ltd the sum of \$6,511.14 by 5pm Friday, 4 October 2013.**

## **Facts**

[1] On 10 July 2012, sheep owned by AFJ Ltd at [address] near [a town] were attacked by dogs. As a result of the attack, one two-tooth ram, four in-lamb ewes and two lambs were found dead, and one six-tooth ram was so severely wounded as a result of dog bites that it had to be euthanised by the attending vet.

[2] ZUM's father, DA, acknowledge that their dogs had returned with blood on their fur and meaty mouths, and were responsible for the incident.

[3] On 20 July 2012, two dogs were seen by KL attacking more sheep. KL shot and wounded one dog. As a result of the attack, one two-tooth ram, one four-tooth ram and one ewe hogget were so severely wounded that they had to be euthanised by the attending vet. A further six mixed aged in-lamb ewes, two ewe hoggets and one two-tooth ram were either dead from injuries or had been euthanised by KL before the vet attended because of the injuries to their necks and faces.

[4] Following the incident, ZUM came to AFJ Ltd to collect his wounded dog which Mr KL then put down at ZUM's request. ZUM asked that his father be allowed to take the other dog to a vet to be euthanised as it was a family pet. Mr KL agreed and the vet has subsequently confirmed that the other dog has been euthanised.

[5] Both ZUM and his father DA admitted to the actions of the dogs and were remorseful. Both dogs were identified by the Police as belonging to ZUM.

[6] AFJ Ltd is insured with JKB Ltd, which has paid for their stock losses and associated costs. JKB Ltd has settled with its insured and in the Tribunal claims \$6,511.14 from ZUM.

## **Decision**

[7] The Tribunal has jurisdiction to hear a claim in tort for damage or injury to any property including stock. The claim is in negligence, for failing to take reasonable care to prevent dogs from attacking stock. A dog owner may be liable in tort on ordinary common law principles of negligence for any damage resulting from a failure to keep their dog under proper control. In addition, under s 63(1) of the Dog Control Act 1996, a dog owner is liable to account to an injured party for the damage done by his or her dog. By virtue of this section, any claim brought in negligence for such damage starts with the proposition that the owner is strictly liable for the damage.

[8] ZUM did not attend the hearing to dispute the claim. The evidence of the applicants was consistent and supported by information provided by the Police.

[9] I find that ZUM's dogs injured the AFJ Ltd stock.

[10] Under general rules of negligence, ZUM, who has failed to take care, is liable to pay the cost of putting the other party back in the position they would have been in had the damage not occurred.

[11] Valuations were produced from NHO for the stock loss. The damages have been established as follows:

(i)	Stock destroyed on 10 July 2012	\$2,495.50
(ii)	Stock destroyed on 20 July 2012	\$3,818.00
(iii)	Vet invoice 11/7/2012	\$ 98.82
(iv)	Vet invoice 23/7/2012	\$ 98.82
		<b>\$6,511.14</b>

[12] I find damages of \$6,511.14 established and reasonable.

[13] ZUM is to pay to JKB Ltd \$6,511.14.