



(Disputes Tribunal Act 1988)  
**ORDER OF DISPUTES TRIBUNAL**

District Court

[2021] NZDT 1302

**APPLICANT** EP

**RESPONDENT** XN

**The Tribunal orders:**

1. XN is to pay to EP the sum of \$1,500.00 on or before Wednesday, 10 March 2021.

**Reasons**

1. On 29 June 2020, dogs attacked EP's sheep in a paddock [redacted]. Six of his sheep were killed.
2. EP has filed a claim against XN for \$1,500.00 on the grounds that he was the owner of the dogs. His claim is for the value of the lost sheep and treatment costs associated with the injuries which resulted.
3. XN defended the claim on the basis that he had been told by the Council that the matter was at an end when the dogs were put down, that his whānau has suffered an irreparable loss from his dogs being put down, and that one of the dogs put down was a 6-month old puppy that could not have been to blame.
4. Having considered all the evidence presented, I find that EP is able to succeed in his claim. This is so for the following reasons:
  - (a) The dogs who attacked the sheep were impounded and identified by the [Redacted] District Council on the day of the attack, and euthanised.
  - (b) The dogs were owned by XN.
  - (c) As owner of the dogs, XN has a duty of care to ensure they are under proper control and do not roam (s5 Animal Law Reform Act 1989, s63 Dog Control Act 1996).
  - (d) XN has breached that duty of care by not ensuring his dogs remained chained up when unattended. As a result, they have been able to roam free.
  - (e) The sum claimed by EP was a reasonable assessment of his loss. EP calculated the value of the lost sheep (\$1,160.00) and the medications he used (over \$100.00), and also asked for an allowance for the unborn lambs lost when the ewes died. His claim sought \$1,500.00. Whilst his actual loss (given the loss of the unborn lambs) is likely to be over \$1,500.00, the Tribunal can only award an amount up to the sum sought in the application. Awards for losses of unborn lambs would in any case have to be discounted for uncertainty and the cost of their production.

5. I have had regard to the fact that the Council gave XN the impression the loss of his dogs would be the end of the matter. The Council has the power under the Dog Control Act to impose fines and other sanctions. I cannot speak for what was said, but perhaps the Council meant that it would take no further action under that Act. The Council is unable to constrain XN right to bring his own claim under the general law to recover his loss.
6. I have also had regard to the fact that XN and his whānau have suffered their own loss. I do not in any way want to overlook that loss. The submission presented by XN showed two beautiful and much-loved family members that have been lost as a result of these events. However, I must also respect EP's loss, and his legal rights. EP cannot be legally responsible for the loss of the dogs, but XN is legally responsible for the loss of the sheep.
7. For these reasons, the sum of \$1,500.00 is awarded as sought.

**Referee:**

**J Robertshawe**

**Date: 17 February 2021**