



Current Articles 2000 – January

The Family "Pets"

The old expression that "every dog has one bite" used to be as reference to a legal doctrine, that of scienter. By this precedent, an animal was not deemed to be known to be vicious until the animal has bitten at least once. Hence, from that point on, the dog was considered vicious. The "first bite" was free!!

In Ontario, this precedence was removed firstly by the Vicious Dog Act and then changed to the current Dog Owners' Liability Act. This act states that "the owner of a dog is liable for damages from a bite or attack by the dog on another person or domestic animal". Under this act, there is no forgiveness of the "first bite". In fact, the owner of the dog would be responsible for damages as a result of an attack even if the dog did not bite the person. An example would be if a dog bounded out and barked at a passing cyclist. If the cyclist were to fall, be injured, and damaging the bike, even though the dog does not bite, the owner could be held responsible for the dog's "attack".

The new Act, however, does remove liable for owners of guard dogs that bite persons on the property with intentions of committing criminal acts(subject to certain conditions).

However, what about the coverage for the pet itself? Domestic pets are considered "Personal Property" and are therefore covered as any other household content item. Many policies may limit the coverage on animals to \$500.00 and may also exclude loss or damage to the animal by theft. All policies will exclude loss or damage to the animal by "impact by land vehicle".

Since the animal is considered personal property, a loss would be settled based on an actual cash value of the animal. Even if the policy included replacement cost coverage, it would be necessary to replace the animal to be paid on a replacement cost basis. What "depreciation" should be deducted for a deceased pet? A recent case involved a neighbour's dog attacking and seriously injuring the family cat. The veterinarian bills for the cat have exceeded \$4,200.00! A bit tongue in cheek, but when does the cat become a "constructive total loss"? This will make an interesting court case.

Several months ago, I discussed binding authority of a broker. In relation to household pets, you may not be aware that the underwriting binding authority rules may preclude binding a homeowner's policy if certain pets are present. For example, Axa Insurance, in their Personal Property Section -- Binding Authority, make a risk ineligible if the risk has any exotic or vicious pet(or animal, including Pit Bull Terriers. In placing or re-marketing a personal lines client, have you ever asked about the family pets? Have you ever seen an application that even asks the question? Just one more, although minimal (we hope) potential E k O exposure.

On another subject and dealing with last month's column, I would greatly appreciate receiving any information or reports of Y2K claims or problems as of January 1, 2000. Also if you have any other suggestions for topics, please give me a call.

James E. Bonnay,
C.I.P., C.C.I.B.
Insurance Consultant

Phone 905-333-1727
Fax 905-333-0683
E-mail - jamesbonnay@cogeco.ca