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Ikea monkey lawsuit: Darwin's former owner returns to court

Laura Kane Thu Jan 31 2013 08:09:00



DARWIN



OWNER

RENE JOHNSTON/TORONTO STAR Yasmin Nakhuda is suing Story Book Farm Primate Sanctuary for "illegally detaining" her monkey.

Yasmin Nakhuda will appear in an Oshawa courthouse for the first time since Dec. 21, when the judge granted an adjournment in the case. She is suing Story Book Farm Primate Sanctuary and its president, Sherri Delaney, for “illegally detaining” the monkey.

The suit also states that Toronto Animal Services had no authority to seize him in the first place.

Her lawyer, Ted Charney, cross-examined two animal control officers involved in capturing the monkey. [In transcripts posted to the lawyer’s website](#), the officers testify that Darwin showed no signs of abuse and that the monkey was excited to see Nakhuda.

Charney said he has also filed witness statements, videos and a statement by an expert familiar with handling Darwin’s monkey breed, to combat the abuse claims.

The allegations were made by the sanctuary earlier this month in its statement of defence, which claimed that Nakhuda and her family [strangled Darwin, beat him with a wooden spoon and neglected to change his diapers for days](#).

The sanctuary also claimed she illegally obtained the monkey from a Montreal exotic animal breeder for \$10,000.

Joseph Fiorillo, the animal control officer who captured Darwin in the Ikea parking lot Dec. 9, testified that he is trained to spot signs of abuse and saw none.

In the parking lot, the monkey “screamed a little bit” and appeared to be searching for Nakhuda, he said. “I’m sure he was looking for his owner but he didn’t attack anybody and he was scared.”

Fiorillo took Darwin to the North York animal services location, where a distraught Nakhuda and her husband arrived later and asked for the monkey to be returned to them.

David Behan, an animal control officer working at the location, refused the couple’s pleas and took them into a separate room to talk. Nakhuda “cried through most of the conversation,” he said.

Behan — who has been an animal control officer for 25 years — said he asked his supervisor for advice. He said he had no experience with returning prohibited animals to owners.

“See if you can get the monkey signed over,” the supervisor allegedly said.

Under municipal bylaws, animal control officers do not have the power to withhold prohibited pets, only to issue a fine. An owner must voluntarily sign a surrender form to turn it over to the city.

In her [statement of claim](#), Nakhuda said she was threatened with criminal charges and told she would never see Darwin again unless she signed.

Behan denied these allegations. He said he advised her that the pet was illegal in Toronto. It is the policy of animal services to impound prohibited animals, he added.

Fiorillo testified that she was “very upset” and “struggling” with whether to sign the form. But after about 20 minutes of discussion with her husband and after making one phone call, she did.

“I was surprised when I came back that she signed it,” said Fiorillo.

After she signed the surrender form, Nakhuda was allowed to see Darwin, who was “very excited” to see her, said Behan. She assisted Animal Services in taking his diaper off and washing him.

“Did she appear to be a woman who wanted to surrender her monkey?” asked Charney.

“No,” Behan replied.