

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

RONNA SIPE, Parent and	:	DOCKET NO. 12-02,277
Natural Guardian of OLYVIA	:	
SIPE, a Minor,	:	
Plaintiff,	:	
	:	CIVIL ACTION
vs.	:	
	:	JURY TRIAL DEMANDED
STEVEN NEWHART,	:	
Defendant.	:	

OPINION AND ORDER

AND NOW, this 10th day of December, 2013, following oral argument on the Defendant's motion for summary judgment held on December 9, 2013, and after review of the argument, pleadings, motions and briefs, the Court finds that summary judgment is warranted. Accordingly, the Defendant's motion is **GRANTED**. This matter is dismissed and is removed from the trial list.

Legal Standard

1. Pursuant to Pa. R.C.P. 1035.2, the Court may grant summary judgment at the close of the relevant proceedings if there is no genuine issue of material fact or if an adverse party has failed to produce evidence of facts essential to the cause of action or defense. *Keystone Freight Corp. v. Stricker*, 31 A.3d 967, 971 (Pa. Super. Ct. 2011). A non-moving party to a summary judgment motion cannot rely on its pleadings and answers alone. Pa. R.C.P. 1035.2; 31 A.3d at 971.
2. When deciding a motion for summary judgment, the Court must view the record in the light most favorable to the non-moving party, with all doubts as to whether a genuine issue of material fact exists being decided in favor of the non-moving party. 31 A.3d at 971.

3. If a non-moving party fails to produce sufficient evidence on an issue on which the party bears the burden of proof, the moving party is entitled to summary judgment as a matter of law. *Keystone*, 31 A.3d at 971 (citing *Young v. Pa. Dep't of Transp.*, 744 A.2d 1276, 1277 (Pa. 2000)).

This matter involves a minor child injured from a dog bite which occurred while visiting tenants who owned the dog. The Defendant is an out-of-possession landlord to the tenants. The Court finds that Plaintiff failed to produce sufficient evidence that the Defendant-Landlord had actual knowledge of the dangerous propensity of the tenants' dog as required by *Rosenberry v. Evans*, 48 A.3d 1255 (Pa.Super. 2012). Plaintiff asserts only that Defendant-Landlord knew that the dog was there and that the dog barked at strangers. This falls short of producing evidence that the dog had a dangerous propensity and that the landlord had actual knowledge of the dog's dangerous propensity.

BY THE COURT,

December 10, 2013

Date

Richard A. Gray, J.

cc: Joe Orso, Esq.
Gary Weber, Esq.