If tenant’s dog bites a guest of the tenant, is the tenant’s landlord liable for injuries arising from the bite? In May 2004 an Illinois appellate court considered this question in a way that should make landlords happy.

In a lawsuit filed in Lake County, Illinois a mother and her 2 ½ -year-old child visited friends next door (call them Mr. and Mrs. Tenant) so that the child could play with Tenant’s son. Tenants also had a dog. Without provocation, the dog bit the child, causing injury.

The Tenants rented their home from Mr. Tenant’s parents (call them Mr. & Mrs. Landlord). Although the home was owned by Landlords, Tenants had an oral month-to-month lease, paid rent of $700 per month, and had exclusive possession and control of their rented home. Acting for her child, the mother filed suit to recover for the child’s injuries. She sued both the Tenants, who had no liability insurance, and Landlords.

The mother argued in her complaint that the dog-bite injury resulted at least partly from Landlord’s negligence, e.g., that Landlords had allowed Tenants to keep a dangerous dog and had failed to warn the mother of the danger to her child. The trial judge granted Landlord’s motion for summary judgment, thereby disposing of the matter before trial. Mother appealed, noting that summary judgment would be proper only if it is clear that Landlords owed no duty to the child in this case.

Justice Byrne observed that “this appeal presents an issue of first impression in Illinois: under what circumstances does a landlord owe a duty of care to his tenant's … [guests] to prevent injury from an attack by an animal kept by the tenant on the leased premises?” In affirming the decision of the trial judge, the court held “that a landlord owes no duty to a tenant's … [guests] to prevent injuries … caused by an animal kept by the tenant on the leased premises if the landlord does not retain control over the area where the injury occurred. A landlord does not retain such control where he has the right to coerce the removal of the animal by threatening to terminate the tenancy.”

Agricultural landlords can breathe a little easier in light of this case (Klitzka v. Hellios, 348 Ill. App. 3rd 594). Agricultural landlords, just like residential landlords, have a low risk of being held liable if landlord’s tenant keeps a dog on the rented farm and this dog bites a guest of the tenant. It still may be wise, however, to explore insurance to manage liability risks. Insurance is obviously helpful if the landlord is found to be negligent in a particular case. Liability insurance is also helpful because the insurance
company usually bears the cost of defending the lawsuit. Liability and other topics are discussed in the Law and Taxation section of *farmdoc*. 