

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 3, 2010

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2009AP1027

Cir. Ct. No. 2007CV523

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

SHANNON EVENSON,

PLAINTIFF-RESPONDENT,

V.

LUCK MUTUAL INSURANCE COMPANY,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Polk County:
ROBERT H. RASMUSSEN, Judge. *Reversed and cause remanded.*

Before Hoover, P.J., Brunner and Vergeront, JJ.

¶1 PER CURIAM. Luck Mutual Insurance Company appeals a summary judgment declaring that Shannon Evenson is not an “insured” under the homeowner’s policy issued to Scott and Harmony Warren and, therefore, is not precluded from seeking liability and medical payments coverage under the

policy's terms. Luck Mutual argues that because Evenson was "caring for" the Warrens' dog, she satisfies the policy's definition of an "insured." We agree and therefore reverse the judgment.

BACKGROUND

¶2 The circuit court found that Evenson house-sat for the Warrens during an approximately twenty-four-hour period in August 2005. It is undisputed that Evenson was neither employed by the Warrens nor compensated for her overnight stay. In addition to generally watching over the house, Evenson was asked to take the laundry to the dry cleaner and vacuum "if she felt like it." Although the Warrens did not ask Evenson to feed or water their three cats and one dog, they did ask Evenson to let the dog out of its kennel so it could go outside to relieve itself. When Evenson ultimately let the dog out of its kennel to go outside, the dog bit her and she sustained injuries from the bite. When Luck Mutual denied Evenson's claim under the policy, Evenson filed the underlying action for summary declaratory judgment. The court granted judgment in Evenson's favor and this appeal follows.

DISCUSSION

¶3 We review a circuit court's decision to grant summary judgment independently, applying the same methodology as the circuit court. *Fifer v. Dix*, 2000 WI App 66, ¶5, 234 Wis. 2d 117, 608 N.W.2d 740. Summary judgment is

appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. WIS. STAT. § 802.08(2).¹

¶4 Further, the construction or interpretation of an insurance policy presents a question of law that we review independently. *Hull v. State Farm Mut. Auto. Ins. Co.*, 222 Wis. 2d 627, 636, 586 N.W.2d 863 (1998). Any ambiguity in the policy language is to be construed in favor of coverage. See *Cardinal v. Leader Nat'l Ins. Co.*, 166 Wis. 2d 375, 382, 480 N.W.2d 1 (1992). The fact that a word has more than one meaning, however, does not make the word ambiguous if only one meaning comports with the parties' objectively reasonable expectations. *United States Fire Ins. Co. v. Ace Baking Co.*, 164 Wis. 2d 499, 503, 476 N.W.2d 282 (Ct. App. 1991). Where language in an insurance contract is unambiguous, we simply apply the policy language to the facts of the case. See *Grotelueschen v. American Family Mut. Ins. Co.*, 171 Wis. 2d 437, 447, 492 N.W.2d 131 (1992). In doing so, we give the policy terms their plain meaning—the meaning a reasonable person in the position of the insured would give them. See *id.*

¶5 Relevant to this appeal, the subject policy defines “insured” as “persons using or *caring for* vehicles, watercraft, or animals owned by any ‘insured.’” (Emphasis added.) The policy further specifies that liability and medical payment coverage is excluded for “bodily injury to any insured.” Although Evenson claims the term “caring for” is ambiguous, it has an objective dictionary definition—the verb “care” is defined as follows: “to give care (as to

¹ All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

the safety, well-being or maintenance of a charge): provide for or attend to needs or perform personal services (as for a patient or a child).” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 338 (1993).

¶6 Here, the court found that Evenson’s primary duty was to “watch over” the home and its contents, including the Warrens’ animals. Evenson contends that because she did nothing more than let the dog out of its kennel to relieve itself, her conduct did not meet the definition of “caring for.” We disagree. This conduct alone satisfies the common meaning of “caring for.” Further, by agreeing to watch the Warrens’ home, Evenson was effectively caring for the animals that were an integral part of that home. Because there is no ambiguity to the term “caring for” as applied to Evenson’s actions, we conclude she is an “insured” under the subject policy, thereby precluding her from seeking liability and medical payment coverage under the policy.²

By the Court.—Judgment reversed and cause remanded.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

² Because we conclude Evenson’s actions satisfy the definition of “caring for” under the policy, we need not address Luck Mutual’s alternative argument that Evenson was an insured because she was performing “domestic duties.” See *Sweet v. Berge*, 113 Wis. 2d 61, 67, 334 N.W.2d 559 (Ct. App. 1983) (only dispositive issues need be addressed).

