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Sunshine on My Shoulder

You all remember that John Denver song? “Sunshine on My Shoulder, makes me happy!” I think we could all use some of that right now. I got to see John Denver in concert in Salina, I think it was about 1980, with a friend of mine, who now is my neighbor. It’s a small world. There is a real mood disorder, for some people when they don’t get enough sunlight. I read about a lady that brought some litigation to her employer because they would not give her a desk by a window. The article said it didn’t look like she had a chance of winning, the company she worked for was a Liability insurance company.

Speaking of liability, I’m sharing something I read in the [Angus Journal](#) awhile back: "Suppose you are the owner of some grazing land. It could be native range, improved pasture or wheat pasture. It might be a field with crop residue suitable for grazing. You own land with available forage, but possess no livestock. So you rent the land to another party who stocks it with cattle.

One dark night, the ringing telephone brings you out of bed. It seems your tenant’s cattle have breached the fence surrounding your property and wandered onto the adjacent highway. Actually, the fence wasn’t too great, but there hadn’t been any problems until this night. But now, at least one escaped critter has been party to a fender-bender. No one was injured, but the owner of a banged-up automobile is mad and threatening to sue somebody for damages. Who should be worried about potential liability for damage to the motorist’s car? Is it you, as owner of the land, or your tenant who actually owns the cattle? According to Terry Arthur, attorney for Kansas Farm Bureau, it’s hard to provide a pat answer since state and local laws can vary so much. However, both parties may have cause for concern.

“Generally, a landlord is responsible for maintaining a legal fence,” says Arthur, noting that most state fence law language says “landowners” must maintain legal fences when and where they are required. And responsibility for escaped cattle would rest with the landowner if he provided custom grazing services including care of the cattle on his property.

“But a tenant, as owner and manager of the livestock, is responsible for escaped cattle. It’s possible, however, that the complaint could come against both landlord and tenant,” Arthur adds. Other factors can muddy the water in situations like the one described, making it even more important for landowners and tenants to protect themselves.

“It’s incumbent upon a landlord to make clear who is responsible for fences on the property, in a lease with a tenant,” states Arthur, who recommends putting terms of the agreement in writing. A lease agreement can be an overriding factor if it clearly assigns duties and responsibilities, including responsibility for maintaining fence and preventing cattle escape and trespass." It may not give total immunity but it sure can help.