

# Decision of the Commissioner for Consumer Protection

## Section 11J(2) *Residential Tenancies Act 1987*

<b>Application Number:</b>	[redacted]
<b>Application Type:</b>	Tenant application challenging refusal of pet request
<b>Property:</b>	[redacted]
<b>Bond held:</b>	\$2,300
<b>Tenants:</b>	[redacted]
<b>Landlord:</b>	[redacted]

### Decision

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The Commissioner orders:

1. The tenant's application is refused.
2. The tenant is not permitted to keep the requested pet at the property.

### Request

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On 1 August 2024, the tenant requested to keep a dog [redacted] (the requested pet), at the property, following the process established in the *Residential Tenancies Act 1987* (RTA).

On 1 August 2024, the landlord refused the tenant's request.

The landlord's reason for refusing was:

- keeping the pet is not allowed under a community title or strata law.

### Application

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On 1 August 2024, the tenant applied to Consumer Protection to challenge the landlord's refusal of their request.

The tenant's challenge was on the basis that:

- the landlord did not provide a copy of all relevant strata by-laws at the time the lease was signed; and
- there are at least two units within the strata complex with dogs.

### Evidence

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The landlord and tenants were invited to provide evidence to support their views about the application.

The tenants provided the following evidence:

- Pet request form.
- Lease agreement.
- Strata by-laws.
- Email exchange between the tenant and the property manager, confirming 'By-law [redacted]' was not provided to the tenant until the pet request was made.

The landlord provided the following evidence:

- Written response to the Commissioner.
- Lease agreement.
- Strata by-laws relating to the property.

The strata management company for the property provided the following evidence:

- Email with a copy of all strata by-laws currently relevant to the property, including 'By-law [redacted]', which states:

*"No proprietor, occupier or other resident shall be permitted to keep any dog on the lot that he owns, occupies or resides in or the common property".*

## Law

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Under the RTA, tenants have the right to keep a pet at their rental property with the landlord's approval.<sup>1</sup>

If the property is governed by strata by-laws, the right to keep a pet is subject to these by-laws.<sup>2</sup> The landlord can refuse the pet request if the strata by-laws prohibit the keeping of pets at the premises.<sup>3</sup>

A tenant can apply to Consumer Protection to challenge the landlord's refusal of their request.<sup>4</sup> The tenant is responsible for demonstrating the refusal is not permitted.

When an application is received, the Commissioner is required to either:

- order the landlord to consent to the tenant's request; or
- approve the landlord's refusal of the tenant's request; or
- refuse the tenant's application.<sup>5</sup>

## Reasons for Decision

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All evidence has been reviewed and only the evidence relevant to deciding this application is mentioned in these reasons for decision.

### Is the landlord's refusal permitted?

'By-law [redacted]' explicitly prohibits occupiers (including tenants) from keeping dogs on lots within the complex.

The strata management company provided written evidence that 'By-law [redacted]' currently applies to this property.

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<sup>1</sup> Section 50A of the *Residential Tenancies Act 1987*

<sup>2</sup> Section 50A(4)(c) of the *Residential Tenancies Act 1987*

<sup>3</sup> Section 50D(a) of the *Residential Tenancies Act 1987*

<sup>4</sup> Section 50G(1) of the *Residential Tenancies Act 1987*

<sup>5</sup> Section 50G(2) of the *Residential Tenancies Act 1987*

It is acknowledged that the landlord failed to disclose 'By-law [redacted]' to the tenants at the commencement of the tenancy, but this does not affect the validity of the by-law. The landlord has been educated about the importance of disclosing all relevant by-laws at the commencement of a lease.

The fact that other occupants in the complex keep dogs is not a relevant consideration for this application.

Considering the evidence from the landlord and the tenant and other information available to me, I am satisfied that the landlord's refusal is permitted.

### **Appeal**

A tenant or landlord who is dissatisfied with this decision can appeal to the Magistrates Court of Western Australia within seven days after receiving this decision.

The appeal can be started by lodging both a [Form 1B – Appeal Against Registrar's Decision](#) and a copy of this notice with the Magistrates Court online at [ecourts.justice.wa.gov.au/eCourtsPortal](http://ecourts.justice.wa.gov.au/eCourtsPortal).

For information about appealing this decision see <http://www.commerce.wa.gov.au/consumer-protection/commissioner-determinations>.

Signed

[redacted]

**Delegate of the Commissioner for Consumer Protection**

**DATE OF ORDER AND WRITTEN REASONS**

[redacted] September 2024