

# Decision of the Commissioner for Consumer Protection

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

<b>Application Number:</b>	[redacted]
<b>Application Type:</b>	Landlord application to refuse pet request
<b>Premises:</b>	[redacted]
<b>Bond held:</b>	\$3,700
<b>Tenants:</b>	[redacted] and [redacted]
<b>Landlord:</b>	[redacted]

### Decision

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The Commissioner orders:

1. The landlord must approve the tenant's request to keep the requested pet at the rental premises.

### Request

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On 23 August 2024, the tenant requested to keep a four-year-old domestic, medium haired cat named [redacted] at the premises, following the process established in the *Residential Tenancies Act 1987* (RTA).

### Application

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On 27 August 2024, the landlord applied to Consumer Protection for approval to refuse the tenant's request.

The landlord's reason for refusal was:

- The premises are unsuitable for keeping the pet.

### Evidence

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

The landlord provided the following evidence:

- Pet Request Form 25.
- Application form for tenancy.
- Written submissions to Consumer Protection.

The tenants provided the following evidence:

- Pet Request Form 25.
- [redacted] By-Laws.
- [redacted] House Rules.
- Written submissions to Consumer Protection.

## Law

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

The tenant is responsible for any damage or nuisance caused by a pet they keep at the premises.<sup>2</sup>

Landlords have the right to apply to Consumer Protection for an order allowing them to refuse the pet.<sup>3</sup>

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

- approve the landlord's application; or
- order the landlord to approve the tenant's request.<sup>4</sup>

The Commissioner may approve this application if satisfied that the grounds claimed by the landlord are established. In this case, the claimed ground is:<sup>5</sup>

- The premises are unsuitable for keeping the pet.

The landlord is responsible for demonstrating that the above reason applies.

The Commissioner may set conditions on the approval of the tenant's request.<sup>6</sup>

## Reasons for Decision

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As a delegate of the Commissioner, I have reviewed all evidence. Only the evidence relevant to deciding this application is mentioned in these reasons for decision.

### Is the premises unsuitable for keeping the pet?

The landlord submits that the premises are unsuitable because the tenants initially agreed to rent out the premises on the condition that pets were not allowed, and the tenants have now gone against that agreement by requesting to keep the requested pet. The landlord has not provided any further evidence to substantiate why the premises are unsuitable for the requested pet.

On 29 July 2024, changes to the RTA came into effect which gave tenants the right to request permission to keep a pet at their rental premises. The tenant is entitled to request to keep a pet even if the residential tenancy agreement includes a term prohibiting pets.

The tenant has supplied evidence that owners and occupiers are permitted to have pets in accordance with schedule [redacted] of the Scheme By-Laws, and the 'House Rules' document.

The tenant has supplied written evidence stating the requested pet is suitable for the size of the premises.

Having regard to the evidence presented by both parties, I am not satisfied that the premises are unsuitable for the requested pet.

## Appeal

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A tenant or landlord who is dissatisfied with this decision can appeal to the Magistrates Court of Western Australia. Appeals must be lodged within seven days after receiving this decision, or a later date if leave is granted by the Court.

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

<sup>2</sup> Section 50I *Residential Tenancies Act 1987*.

<sup>3</sup> Section 50E(1) *Residential Tenancies Act 1987*.

<sup>4</sup> Section 50E(2) *Residential Tenancies Act 1987*.

<sup>5</sup> Section 50E(3) *Residential Tenancies Act 1987*.

<sup>6</sup> Section 50E(4) *Residential Tenancies Act 1987*.

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](https://ecourts.justice.wa.gov.au/eCourtsPortal).

For information about appealing the 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