

# 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>	\$2000.00
<b>Tenant:</b>	[redacted]
<b>Landlord:</b>	[redacted]

### Decision

---

The Commissioner orders:

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

### Request

---

On 25 September 2024, the tenant requested to keep a 19-month-old Golden Retriever (the requested pet) at the premises, following the process established in the *Residential Tenancies Act 1987* (RTA).

### Application

---

On 30 September 2024, the landlord applied to Consumer Protection for approval to refuse the tenant's request.

The landlord's refusal was on the grounds that:

- The premises are unsuitable for keeping the pet.

### Evidence

---

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

The landlord provided the following evidence:

- Pet Request Form.
- Written submissions to Consumer Protection.
- Seven photos showing the front and rear of the premises.
- Verbal statements.

The tenant provided the following evidence:

- Pet Request Form
- Written submissions to Consumer Protection.
- Photo of the front of the premises.
- Verbal statements.
- Booking confirmation of RSPCA training [redacted].

- Contact details for RSPCA Trainers

## Law

---

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 request.<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.

## Reasons for Decision

---

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.

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

The RTA provides examples of why a premises may be unsuitable, such as a lack of fencing and open spaces.

In their application and written submissions, the landlord provided photos of the premises, including the back patio area. The landlord expressed concerns over the size of the patio, as well as the toileting of the requested pet, commenting that the back patio is paved, and the front yard only has artificial lawn with no fencing.

The landlord's property manager made a verbal statement raising concern about shade and the heat of the concrete during the summer months.

The photos provided by the landlord show that the backyard is fenced, of a reasonable size, and is predominantly covered by a patio roof, which would provide adequate shade and shelter for the requested pet.

In a written submission, the tenant sets out the use of living space for the requested pet as follows:

- Half the back area is for toileting, with beds and a sand pit.
- The front alfresco is for playing and training.
- Inside the premises there is room for sleeping, television, and gentle play.

The tenant also advised:

- The requested pet is supervised regularly as he works from home most of the time.
- The tenant would regularly take the requested pet to a dog park for exercise and training.
- The requested pet attends RSPCA training.

---

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

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

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

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

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

Additionally, the photo provided by the tenant shows a park [redacted] the premises. Further investigation by Consumer Protection has found that this park is an off-lead dog park, being [redacted].

Considering the information from the landlord and the tenant and other information available to me, I am not satisfied that the property is unsuitable for keeping the requested pet.

### **Appeal**

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.

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 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] November 2024.