

Decision of the Commissioner for Consumer Protection

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

Application Number:	[redacted]
Application Type:	Landlord application to refuse pet request
Premises:	[redacted]
Bond held:	\$2260 (including \$260 pet bond)
Tenants:	[redacted] and [redacted]
Landlord:	[redacted]

Decision

The Commissioner orders:

1. The landlord must approve the tenants' request to keep the requested pet at the premises.
2. The tenants are permitted to keep the requested pet at the premises.

Request

On 11 October 2024, the tenants requested to keep a three-month-old Beagle Cross dog (the requested pet) at the premises, following the process established in the *Residential Tenancies Act 1987* (WA) (RTA).

The tenants already have approval to keep a Maltese Shih Tzu and a cat (the existing approved pets) at the premises.

Application

On 14 October 2024, the landlord applied to Consumer Protection for approval to refuse the tenants' request.

The landlord's refusal was on the grounds that:

- Keeping the pet would exceed a reasonable number of pets being kept at the premises.
- The premises are unsuitable for keeping the pet.

Evidence

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

The landlord provided the following evidence:

- Written submission to Consumer Protection.
- Photo of the rear of premises.
- Routine inspection report.

The tenants provided the following evidence:

- Verbal statement to Consumer Protection.

- Written submission to Consumer Protection.
- Two photos of the backyard at the premises.
- Photo of a Maltese Shih Tzu (one of the existing approved pets).
- Routine inspection report.
- Partial lease agreement.

Law

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

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

Landlords have the right to apply to Consumer Protection for an order allowing them to refuse the pet request.³

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.⁴

The Commissioner may approve this application if satisfied that the grounds claimed by the landlord are established. In this case, the claimed grounds are:⁵

- Keeping the pet would exceed a reasonable number of pets being kept at the premises.
- The premises are unsuitable for keeping the pet.

The landlord is responsible for demonstrating that one or both of the above reasons apply.

The Commissioner may set conditions on the approval of the tenant's request.⁶

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.

Would keeping the pet exceed a reasonable number of pets being kept at the premises?

In their application to Consumer Protection, the landlord raised concern that it would be unreasonable to keep any additional pets at the premises, as the tenant already has the existing approved pets at the premises.

When considering what is a 'reasonable number of pets', I have considered:

- The nature and size of the premises.
- The requested pet.
- Any existing pets at the premises.
- Applicable Local Government laws.

In a written submission to Consumer Protection, the tenants advised the premises are 728 square metres, with the backyard taking up just under half of the total area.

The tenants also provided photos of the backyard of the premises, which shows there is enough space for the requested pet and the existing approved pets to co-exist.

¹ Section 50A *Residential Tenancies Act 1987* (WA).

² Section 50I *Residential Tenancies Act 1987* (WA).

³ Section 50E(1) *Residential Tenancies Act 1987* (WA).

⁴ Section 50E(2) *Residential Tenancies Act 1987* (WA).

⁵ Section 50E(3) *Residential Tenancies Act 1987* (WA).

⁶ Section 50E(4) *Residential Tenancies Act 1987* (WA).

The premises are located in [redacted], which allows residents to keep up to two dogs and three cats.⁷

The landlord has not presented any evidence that suggests the addition of the requested pet would exceed a 'reasonable number of pets' at the premises.

For these reasons, I am not satisfied that keeping the requested pet would exceed a reasonable number of pets being kept at the premises.

Is 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 to Consumer Protection, the landlord claimed, "the size of the rear yard is not reasonable for the keeping of two dogs".

The tenants' evidence about the size of the property, as well as their photos of the backyard, demonstrate there is enough open space for the requested pet and the existing approved pets. The tenants' photos also show the backyard is fully fenced.

No evidence has been provided by the landlord to show the premises are unsuitable for keeping the requested pet.

Considering the information from the landlord and the tenant, I am not satisfied that the premises are unsuitable for keeping the 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.

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

⁷ Clauses 2.9 and 2.60 [redacted].