

# 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 approve pet request with condition.
<b>Premises:</b>	[redacted]
<b>Bond held:</b>	\$1,800
<b>Tenant:</b>	[redacted]
<b>Landlord:</b>	[redacted]

### Decision

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The Commissioner orders:

1. The landlord's application is refused.
2. The tenant is permitted to keep the requested pets at the premises.
3. The following condition applies to the landlord's approval of the requested pet:
  - a. The tenant must place a hard waterproof base with sides under underneath the guinea pig enclosure, to protect the internal flooring.

### Request

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On 15 October 2024, the tenant requested to keep four Guinea Pigs (the requested pets), following the process established in the *Residential Tenancies Act 1987 (WA) (RTA)*.

### Application

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On 18 October 2024, the landlord applied to Consumer Protection for permission to set conditions on the approval of the tenant's request.

The landlord's condition is:

- The requested pets are to be kept outside at all times.

### Evidence

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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.
- Application Form.

The tenant provided the following evidence:

- Written submissions to Consumer Protection.
- Photo of Guinea Pig enclosure.

## 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 set conditions on the approval of a pet request.<sup>3</sup> The landlord is responsible for demonstrating that the conditions are reasonable.

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

- approve the landlord's application; or
- refuse the landlord's application.<sup>4</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.

When deciding whether to approve a condition, I am guided by the following factors:

- Is the proposed condition appropriate, reasonable and proportionate to the risk?
- Is the proposed condition covered under any other law?
- Do the parties agree to the proposed condition?
- Does the proposed condition address any of the following factors in the RTA:<sup>5</sup>
  - the premises are unsuitable for keeping the pet;
  - keeping the pet at the premises would exceed a reasonable number of pets being kept at the premises;
  - keeping the pet at the premises is likely to cause damage to the premises that could not be repaired for less than the amount of the security bond for the premises;
  - keeping the pet at the premises would pose an unacceptable risk to the health and safety of a person;
  - keeping the pet at the premises is likely to cause the lessor undue hardship; or
  - a prescribed ground.

### **Requested condition – the pets are to be kept outside at all times**

In written statements to Consumer Protection, the landlord raised concerns that wooden and carpeted flooring could be damaged by the requested pets if they were left to roam freely throughout the premises.

The tenant disputes the requested condition because the requested pets are sensitive to heat and need to be kept in temperatures between 16 and 24 degrees Celsius. The tenant advised that in temperatures exceeding 24 degrees Celsius, the requested pets would be prone to heat stroke, or death. The tenant advised on days where the weather permits, the requested pets will be kept outside in their enclosure.

I have consulted the RSPCA Knowledgebase, which contains an article titled "Where should I keep my guinea pigs?". This article is available on the following website: <https://kb.rspca.org.au/knowledge-base/where-should-i-keep-my-guinea-pigs/>. The article states:

"Having a compact body, guinea pigs do not cope well with heat, and they are susceptible to heat stress. Low temperatures are more comfortable for guinea pigs than high temperatures,

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

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

<sup>3</sup> Sections 50F(2) *Residential Tenancies Act 1987* (WA).

<sup>4</sup> Sections 50F(3) *Residential Tenancies Act 1987* (WA).

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

especially if the humidity is high. Guinea pigs are comfortable only in the narrow temperature range from 18° degrees Celsius to 23°degrees Celsius. They also prefer a low relative humidity (below 50%)”.

This article and written evidence from the tenant satisfies me that guinea pigs are prone to heat stress if kept in temperatures above 24 degrees Celsius.

The tenant submits that the requested pets are kept in an enclosure inside the premises, which is sometimes kept outside if weather permits. The requested pets are also handled by [redacted] when out of the enclosure and not left to run free. The tenant supplied a photo of the enclosure on the wooden floorboards inside the premises, with a waterproof mat and towels layered underneath. The tenant advised Consumer Protection that the mat is cleaned frequently.

Having regard to the evidence before me, I am not satisfied that the requested condition is reasonable or appropriate, because it exposes the requested pets to a risk of serious health issues and discomfort. This condition is not approved.

**Condition – the tenant must place a hard waterproof base with sides under underneath the guinea pig enclosure, to protect the internal flooring.**

I am not satisfied that the existing set-up adequately protects the flooring from potential damage caused by the faeces and urine from the requested pets. It is likely that urine and faeces will seep through the soft mats, and potentially stain the flooring, cause a bad odour, or contribute to rotting due to exposure to moisture.

I have decided to impose a condition requiring the tenant to purchase a hard base to sit directly underneath the enclosure. This hard base should have sides to ensure that any waste does not seep into the flooring to cause staining, odour, or damage.

This condition will protect the flooring from damage and ensure the requested pets are not exposed to excessive heat with serious repercussions.

## **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