

# 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:** \$1,580  
**Tenants:** [redacted] and [redacted]  
**Landlord:** [redacted]

### Decision

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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.
3. The following condition applies to the landlord's approval of the requested pet:
  - a. The requested pet must be kept off the balcony until it cannot fit through the balustrade openings.

### Request

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On 1 August 2024, the tenants requested to keep a King Charles Cavalier (the requested pet) at the premises, following the process established in the *Residential Tenancies Act 1987* (RTA).

### Application

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On 2 August 2024, the landlord applied to Consumer Protection for approval to refuse the tenants' request.

The landlord's reason for refusing was:

- The premises are unsuitable for keeping a 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.
- Routine inspection report dated [redacted]
- Photos and videos of the apartment and building.
- Written submissions to Consumer Protection.

The tenants provided the following evidence:

- Pet request form.
- Letter from [redacted] ([redacted] Dog Training).
- Written statement from [redacted].

## Law

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

The tenants are 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 a pet.

The landlord is responsible for demonstrating that this 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.

### **Are the premises unsuitable for the requested pet?**

The premises is a 1-bedroom apartment located on the eighth floor of an apartment complex. There is a 10 square metre balcony with a metal balustrade.

The landlord submits that this apartment is unsuitable for the requested pet because of the apartment's small size and location on the eighth floor. The landlord also submits that it is not fair for a dog to be kept in the small premises unless the tenants are going to be home all day to take the requested pet out to relieve itself.

The tenants have developed a plan to ensure they can appropriately meet the needs of the requested pet. This plan includes:

- professional dog training programs, including crate training; and
- regular activities outside the apartment including doggy daycare and regular walks.

The tenants advise they have chosen the King Charles Cavalier breed due to its small size and suitability for apartment living.

The landlord also raised concerns that the balcony balustrade has openings that the requested pet may fall through.

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

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

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

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

Photographs provided by the landlord show the balustrade is constructed from perforated metal panels with openings under and between the panels.

In the Pet Request Form, the tenants state they intend to keep the requested pet off the balcony.

I have therefore decided to impose a condition that the requested pet must be kept off the balcony at all times until it cannot fit through the balustrade openings. This is an effective and practical solution that will alleviate the landlord's concerns, and ensure the requested pet is safe.

### **Risk of nuisance**

The landlord raised concerns about potential nuisance (such as barking) caused by the requested pet.

The RTA stipulates that tenants are responsible for all nuisance caused by a pet kept at the premises. I am satisfied that the landlord has appropriate remedies under the RTA to address any potential nuisance caused by the requested pet.<sup>7</sup>

There are also requirements under the *Dog Act 1976* (WA) which deal with nuisance dogs that the tenants would have to comply with if there were complaints.

### **Conclusion**

Considering the information from the landlord and the tenants, and on the condition that the requested pet is kept off the balcony until it cannot fit through the balustrade openings, I am not satisfied that the premises are 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] October 2024

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<sup>7</sup> Section 62 of the *Residential Tenancies Act 1987* (WA)