

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: \$2200
Tenant: [redacted]
Landlords: [redacted] and [redacted]

Decision

The Commissioner orders:

1. The landlords 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 1 May 2025, the tenant requested to keep a four-month-old, large mixed breed dog (the requested pet) at the premises, following the process established in the *Residential Tenancies Act 1987* (WA) (RTA).

Application

On 1 May 2025, the landlords applied to Consumer Protection for approval to refuse the tenant's request.

The landlords' refusal was on the grounds that:

- The premises are unsuitable for keeping the requested pet.
- Keeping the requested 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.
- Keeping the requested pet at the premises is likely to cause the landlord undue hardship.

Evidence

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

The landlords provided the following evidence:

- Written submissions to Consumer Protection.
- Pet Request Form 25.
- Lease agreement.
- Photographs.

The tenant provided the following evidence:

- Written submission to Consumer Protection.

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 landlords are established. In this case, the claimed grounds are:⁵

- The premises are unsuitable for keeping the requested pet.
- Keeping the requested 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.
- Keeping the requested pet at the premises is likely to cause the landlord undue hardship.

The landlord is responsible for demonstrating that at least one of these grounds 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.

Are the premises unsuitable for keeping the requested pet?

In the landlords' application, it is stated that the premises are unsuitable due to the backyard being fully paved with no grass.

The RTA provides examples of why a premises may be unsuitable, such as lack of fencing and open spaces.⁷ The lack of any grassed area in the backyard does not make the premises unsuitable for keeping the requested pet.

Research conducted by Consumer Protection shows the premises is a four bedroom, two-bathroom home with a fully fenced backyard and protection from the elements for the requested pet.⁸

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

Is keeping the requested pet at the premises likely to cause damage to the premises that could not be repaired for less than the bond?

The security bond held by the Bond Administrator for this premises is \$2200.

In written submissions, the landlords stated that the requested pet has caused the following damage:

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).

⁷ Section 50E(3) *Residential Tenancies Act 1987* (WA)

⁸ [redacted].

- Rips in the fly screen door.
- Faeces on pavers causing stains.

A photograph of the rips to the fly screen door was submitted by the landlords. There is no evidence of the cost to repair to the flyscreen door, but it would clearly not exceed the security bond.

The landlords submitted non-dated photographs depicting faeces on the pavers for the home open of the premises. There is no evidence of staining to the pavers or the cost to repair should any staining occur.

No evidence has been provided by the landlords to show how the requested pet will damage the premises exceeding the security bond of \$2,200.

The tenant has an obligation to ensure that the premises are left in as close as possible to the same condition compared to when they moved in, less any fair wear and tear.⁹ This cannot be determined until the end of the tenancy.

In the tenant's application, a plan to train and care for the requested pet was submitted.

Considering the information from the landlords and the tenant, I am not satisfied that keeping the requested pet at the premises is likely to cause damage to the premises that could not be repaired for less than the bond.

Is keeping the requested pet at the premises likely to cause the landlord undue hardship?

The term 'undue hardship' is not defined in the RTA.

The Macquarie Dictionary defines the terms as:

- Undue: unwarranted; excessive; not proper, fitting or right; unjustified.
- Hardship: a condition that bears hard upon one; severe toil, trial, oppression or need.

The New South Wales Supreme Court has previously concluded that the phrase "undue hardship" means "greater hardship than the circumstances warrant".¹⁰

It was stated on the pet request form that the landlords are "quite stressed about the situation" due to the pavers not being cleaned and the damage to the fly screen door evident when there was a home open to sell the premises.

The RTA outlines the tenant's responsibilities:

- the tenant shall not intentionally; or
- negligently cause or permit damage to the premises.¹¹

The RTA similarly outlines tenant responsibilities for keeping a pet:

- the tenant is responsible for nuisance caused by a pet; and
- repairing damage caused by a pet.¹²

The tenant's written submission states the landlords approved the requested pet in person and then declined approval a few days later. The landlords had the opportunity to decline the request prior to the requested pet being brought onto the premises.

⁹ Section 38(1)(a)(b) *Residential Tenancies Act 1987* (WA).

¹⁰ *State of New South Wales v Austeel Pty Limited* [2004] NSWSC 81, [22], quoting *Liberian Shipping Corporation v A King & Sons Ltd* [1967] 1 Lloyd's Rep 302 at [307].

¹¹ Section 38(1)(c) *Residential Tenancies Act 1987* (WA).

¹² Section 50I *Residential Tenancies Act 1987* (WA).

No evidence has been provided by the landlords to show that the requested pet would cause damage that would meet the definition of undue hardship.

Considering the information from the landlords and the tenant, I am not satisfied that keeping the requested pet at the premises is likely to cause the landlord undue hardship.

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

23 May 2025