

TENANCY TRIBUNAL - Christchurch | Ōtautahi

APPLICANT: Kāinga Ora–Homes and Communities
Landlord

RESPONDENT: David Albert Alfred Goldsack
Tenant

TENANCY ADDRESS: 137 Selwyn Street, Somerfield, Christchurch 8024

ORDER

1. No application for suppression has been made in this case and no suppression orders apply to publication of this decision.
2. David Albert Alfred Goldsack must by 11.59pm on Wednesday 11 October 2023 remove the dog “Fatty” from the premises and must not allow the dog back onto the premises.
3. David Albert Alfred Goldsack must not keep any dog or other pet on the premises without the landlord’s consent.
4. The landlord must deliver a copy of this order to the premises within 24 hours of receiving it.

Reasons:

1. Ms Rea attended the hearing by telephone for the landlord. The tenant did not attend the hearing.
2. This tenancy began on 23 March 2023.
3. On 10 July 2023 the landlord became aware that the tenant had a dog on the premises. It received a complaint that the dog had injured a person, killed cats in the neighbourhood and attacked and injured another dog.

4. The landlord tried to contact the tenant and went to the premises, but the tenant was not cooperative.
5. The landlord received another complaint about the dog on 18 July and was informed that a complaint had been made to Dog Control at Christchurch City Council (the Council).
6. The landlord made an OIA request to Dog Control and received evidence that the dog, named Fatty, had been classified by the Council as a Dangerous Dog under the Dog Control Act 1996.
7. The landlord had a meeting with the tenant on 8 August. The tenant said that he hadn't received the notice of classification from the Council and that he intended disputing it.
8. The landlord then issued the tenant with a formal letter declining consent for the tenant to keep a dog on the premises and giving him 10 days to remove the dog.
9. On 14 August, the Council informed the landlord that the tenant's application to dispute the dangerous dog classification was declined because it was made out of time.
10. On 28 August the tenant informed the landlord that he still had the dog on the premises. The landlord believes that the tenant still has the dog on the premises.
11. Relevantly, the tenancy agreement states,

You must let us know if you want to keep a pet, including a dog. We will allow you to keep pet(s) on the premises as long as the pet(s) meet the guidelines explained in the appendix "Can I Keep A Pet". This forms part of this Agreement.

12. The Appendix: Can I Keep A Pet states, relevantly,

If you want to have a pet, including a dog, you need to let us know. We may allow you to keep pet(s) at your home as long as:

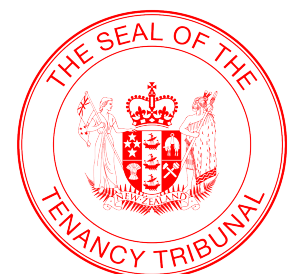
- *The pet is not likely to, or does not, attack any person or other pet and*

If the pet is a dog, as long as:

- *The dog is not a specified dangerous or menacing dog under the Dog Control Act 1996 and*

13. These provisions are unconventional. Typically, a tenancy agreement will expressly prohibit pets on the premises without the landlord's written consent. This agreement does not do that. The only express term requires the tenant to tell the landlord if they want to have pet on the premises. The tenant has not done that, certainly not before he brought the dog onto the premises.

14. Proving a breach of that obligation does not get the landlord very far. It does not follow from that breach that the tenant must not have a dog or other pet on the premises.
15. By its application, the landlord plainly wants the Tribunal to infer from the terms of the agreement that the tenant must not have a dog or other pet on the premises without the landlord's consent. That is not ideal. It is not clear to me why the landlord has not simply prohibited pets without its consent or at least made it clearer that it will allow pets in certain circumstances but otherwise they are prohibited.
16. That said, taking paragraph 19 of the agreement and the corresponding appendix together, I find that a reasonable tenant reading the agreement would understand that they were required to inform the landlord if they wanted to have a pet on the premises and that if any the requirements in the Appendix were not met, and the landlord did not give its consent for the pet, they were not permitted to have it on the premises.
17. In this case the requirements for having the dog on the premises have not been met and the landlord has refused to give consent for the dog to be on the premises. The tenant must not, therefore, have the dog on the premises.
18. The landlord has applied for an order requiring the tenant to remove the dog from the premises. After discussion with Ms Rea during the hearing, she agreed that the order should also require the tenant to keep the dog and any other pets that the landlord has not consented to, off the premises. Ms Rea proposed 14 days to comply with the order to remove the dog. I have therefore made such an order.
19. Because the Tribunal does not have an email address for the tenant for service, I have directed the landlord to deliver a copy of this order to the premises within 24 hours of receiving it.



R Armstrong
27 September 2023

Please read carefully:

Visit justice.govt.nz/tribunals/tenancy/rehearings-appeals for more information on rehearings and appeals.

Rehearings

You can apply for a rehearing if you believe that a substantial wrong or miscarriage of justice has happened. For example:

- you did not get the letter telling you the date of the hearing, **or**
- the adjudicator improperly admitted or rejected evidence, **or**
- new evidence, relating to the original application, has become available.

You must give reasons and evidence to support your application for a rehearing.

A rehearing will not be granted just because you disagree with the decision.

You must apply within five working days of the decision using the Application for Rehearing form: justice.govt.nz/assets/Documents/Forms/TT-Application-for-rehearing.pdf

Right of Appeal

Both the landlord and the tenant can file an appeal. You should file your appeal at the District Court where the original hearing took place. The cost for an appeal is \$200. You must apply within 10 working days after the decision is issued using this Appeal to the District Court form: justice.govt.nz/tribunals/tenancy/rehearings-appeals

Grounds for an appeal

You can appeal if you think the decision was wrong, but not because you don't like the decision. For some cases, there'll be no right to appeal. For example, you can't appeal:

- against an interim order
- a final order for the payment of less than \$1000
- a final order to undertake work worth less than \$1000.

Enforcement

Where the Tribunal made an order about money or property this is called a **civil debt**. The Ministry of Justice Collections Team can assist with enforcing civil debt. You can contact the collections team on **0800 233 222** or go to justice.govt.nz/fines/civil-debt for forms and information.

Notice to a party ordered to pay money or vacate premises, etc.

Failure to comply with any order may result in substantial additional costs for enforcement. It may also involve being ordered to appear in the District Court for an examination of your means or seizure of your property.

If you require further help or information regarding this matter, visit tenancy.govt.nz/disputes/enforcing-decisions or phone Tenancy Services on 0800 836 262.

Mēna ka hiahia koe ki ētahi atu awhina, kōrero ranei mo tēnei take, haere ki tenei ipurangi tenancy.govt.nz/disputes/enforcing-decisions, waea atu ki Ratonga Takirua ma runga 0800 836 262 ranei.

A manaomia nisi faamatalaga poo se fesoasoani, e uiga i lau mataupu, asiasi ifo le matou aupega tafailagi: tenancy.govt.nz/disputes/enforcing-decisions, pe fesootai mai le Tenancy Services i le numera 0800 836 262.