

# Legislation Concerning Tenants with Pets

Prepared March 27, 2023

Written by: Paige Jackson and Michele Rajput,

Pro Bono Students Canada – University of Saskatchewan

## **PURPOSE**

Pet owners often have difficulty finding rental properties that accept pets. The primary objective of this project was to answer the question “Do Saskatchewan landlords have the right to prohibit the presence of pets in tenancy agreements?” Related questions considered include the legal rights of Saskatchewan tenants with pets and legislation in other provinces which could serve as a model for expanding rights in Saskatchewan.

## **INTRODUCTION**

The law in Saskatchewan surrounding residential tenancies with pets is very vague. There is little direction provided by the primary statute that governs residential tenancies in Saskatchewan. Unlike Ontario, *The Residential Tenancies Act* (“SKRTA”) in Saskatchewan does not include any provisions specifically relating to pets.<sup>1</sup> There are general provisions in the *SKRTA* relating to tenancy agreements that can be interpreted in relation to pet clauses that are part of a lease. Municipalities may also have their own specific rules which may limit the type and number of animals that can be kept as pets.<sup>2</sup> Condominiums are governed by their own STRATA board bylaws and *The Condominium Property Act, 1993, c.C-26*,<sup>1</sup> which provides more explicit information on pet policies.<sup>3</sup>

In Saskatchewan, due to the lack of specificity in the legislation, pets are permitted in residential tenancies unless otherwise stated. However, landlords are permitted to refuse to rent to pet owners by implementing no-pet policies. No-pet policies and pet deposits do not apply to service animals. Tenants may be evicted if they breach any provisions of the *SKRTA* by way of disturbing other tenants, breaching a no-pet clause in their lease, or failing to repair damage and keep the residence clean. Landlords may require a pet deposit, subject to certain conditions.

Alterations to a lease must be done subject to the *SKRTA* and new landlords taking over a lease effectively replace the old landlord. Disputes may be brought to the Office of Residential Tenancies (“ORT”) for review. In contrast, Ontario legislation protects the rights of tenants to have pets without additional fees or deposits. No other province has any similar legislation.

## **LEGAL RIGHTS OF TENANTS WITH PETS IN SASKATCHEWAN**

### **Can landlords refuse to rent to pet owners?**

There is no specific provision in the *SKRTA* which allows landlords to refuse to rent to tenants with a pet.<sup>4</sup> However, any landlord must explicitly state if they have a “no pet” policy. If there is an explicit allowance of pets or no pet policy in place, then a tenant may have a pet in the unit and cannot be evicted for this reason.<sup>5</sup> The only exception to this is if someone has a service animal classified according to the *Human Rights Code*, in which case “no pet” policies do not apply.<sup>6</sup>

### **Can a tenant be evicted for their pet?**

A tenant may be evicted in certain circumstances as a result of their pet pursuant to the *SKRTA*.<sup>7</sup> A tenant is required to repair and maintain the property and therefore must repair any damage caused by their pet or by the neglect of the tenant to clean up after their pet and maintain sanitary conditions.<sup>8</sup> Further, in cases of damage that a tenant does not or cannot repair, or if extraordinary damage has been caused, a landlord is permitted to end the tenancy agreement.<sup>9</sup> A tenant can also be evicted under the *SKRTA* for disturbing other occupants or violating municipal by-laws.<sup>10</sup> An example of a breach of the disturbance clause may arise if there is a dog barking excessively.

Another reason a tenant can be evicted is for being in violation of their tenancy agreement.<sup>11</sup> Having a pet in the residence where a no-pet clause exists would be reasonable grounds for eviction. However, if the landlord knows the tenant has a pet and the no-pet policy has not been enforced, the equitable principle of estoppel applies, and the landlord cannot begin enforcement during the lease.<sup>12</sup>

A tenant cannot be evicted for owning a pet unless it has been previously discussed and agreed upon that the landlord has a no-pet policy. In Saskatchewan, if there is no indication either way about the allowance of pets, a pet is allowed.<sup>13</sup> If there is a pet clause allowing a pet, the landlord cannot require the pet to be removed from the residence without the tenant’s consent during the term of the lease as per the tenancy agreement amendment requirements of the *SKRTA*.<sup>14</sup>

### **Can a landlord charge a pet deposit?**

Case law indicates that landlords can charge an initial one-time pet fee, a monthly pet fee that is added to the rental price, or both.<sup>15</sup> Furthermore, the security deposit could include a portion to account for the pet, commonly referred to as a pet deposit. A pet deposit is required to be returned to the renter with the security deposit at the end of the lease and must follow the rules for security deposits set out by the *SKRTA*.<sup>16</sup> A one-time pet fee should be indicated as non-refundable, and any pet fee indicated as non-refundable is not a pet deposit and is not included in the security deposit.<sup>17</sup> Pet fees, which are non-refundable, are typically applied by the ORT to any damage or cleaning at the end of the lease.<sup>18</sup>

There was previously a Government of Saskatchewan page that provided information specifically for pet deposits, however, this has since been removed from their website. According to the ORT, the page was removed because the *SKRTA* does not include a section regarding pet fees or deposits.<sup>19</sup> The page was referenced by multiple online guides, including the Regina Humane Society and other publicly available information sheets relating to rentals with pets in Saskatchewan. This further indicates more clarity in the law is required.

General information on security deposits can be found in the *SKRTA* and the Government of Saskatchewan. Security deposits must be returned upon the end of a lease within seven business days unless there is a reason for a landlord to retain part or all of the security deposit for a reason such as damage caused by a pet.<sup>20</sup> As a security deposit cannot exceed one month's rent, the pet deposit portion must not cause the total security deposit to exceed one month's rent.<sup>21</sup> If the amount exceeds one month's rent, this excess may be applied to a future month's rental payment.<sup>22</sup>

### **What happens if a landlord wants to alter the lease in relation to pets?**

Changes to a tenancy agreement are governed by the *SKRTA*.<sup>23</sup> Under this legislation, there cannot be the removal of standard conditions, and amendments during the term of the lease must be agreed to by both the tenant and the landlord.<sup>24</sup> Therefore, for a landlord to make valid changes to a pet clause included in the lease, the tenant would be required to agree to the change for it to take effect. For example, if the landlord wanted to remove a pet clause from the lease, they require consent of the tenant.

### **What happens if a new landlord takes over the lease?**

If a new landlord takes over the lease, they are substituted into the agreement and are under the same rights and obligations as the previous tenancy agreement.<sup>25</sup> If the lease included a pet clause, specifically allowing pets or with a no-pet policy, this state of affairs would continue until the end of the lease. The new landlord is not able to make any changes to the tenancy agreement unless the new landlord and tenant both agree to the amendment, pursuant to the lease alteration provision.<sup>26</sup>

### **Do restrictions on pets apply to service animals?**

According to *The Saskatchewan Human Rights Code*, service animals in Saskatchewan exclude pets, emotional support animals, therapy animals, and those that do not have specific training to perform specialized tasks.<sup>27</sup> An animal that is trained to perform a few tasks is not considered to be a service animal.<sup>28</sup> Examples of service animals include Guide Dogs, Assist Dogs, Hearing Dogs, Seizure Response Dogs, and Psychiatric Service Animals.<sup>29</sup>

It is expressly stated in the *Human Rights Code* that an individual may not be discriminated against for having a disability in relation to rental agreements.<sup>30</sup> A disability pursuant to the *Human Rights Code* includes a person who relies upon

a service animal.<sup>31</sup> Furthermore, a landlord cannot refuse to rent to an individual with a service animal, no-pet policies do not apply, and pet deposits cannot be charged.<sup>32</sup>

Failure to comply with the *Human Rights Code* allows an individual to file a complaint with the Saskatchewan Human Rights Commission.<sup>33</sup> All related procedures are outlined in sections 29-50 of the *Human Rights Code*.<sup>34</sup>

### **What legal remedies are available to tenants?**

The main avenue for tenants is through the ORT which is an impartial independent governmental agency for Saskatchewan.<sup>35</sup> The ORT has the power to settle disputes that cannot be resolved between the landlord and the tenant.<sup>36</sup> The ORT has a maximum adjudication limit of \$30,000 and the ability to make decisions over most residential tenancies but excludes some tenancy types such as those being farmed by the tenant, accommodation designated under certain pieces of legislation, educational institution housing, and rentals for the life of a tenant or for terms greater than 20 years.<sup>37</sup> A tenant does not have an avenue for a remedy if they are in breach of a no-pet clause or policy.

### **LEGAL RIGHTS OF TENANTS WITH PETS IN ONTARIO**

Ontario is the only province with legislation protecting the right of residential tenants to have pets and tenants can not be evicted for having pets. The Ontario *Residential Tenancies Act* ("Ontario RTA") specifically eliminates blanket bans on pets by simply stating "A provision in a tenancy agreement prohibiting the presence of animals in or about the residential complex is void."<sup>38</sup> The legislation only applies to tenancy agreements and does not apply within condominiums where condo board rules banning pets would apply to leased units.<sup>39</sup>

Landlords can choose to not lease to pet owners but cannot enforce a pet ban after a lease is signed.<sup>40</sup> Ontario does not permit landlords to charge pet fees or specific pet deposits.<sup>41</sup> The only security deposit allowed is a rent deposit paid before the start of the tenancy.<sup>42</sup> A discount for not having a pet might be possible if properly structured.<sup>43</sup> Any damage caused by a pet is the responsibility of the tenant and, if the damage is not repaired, could result in eviction.<sup>44</sup> Tenants can also be evicted if pets deprive other residents of "quiet enjoyment" of their property or are unsafe.<sup>45</sup>

Residential tenants are permitted to have service animals. According to the *Human Rights Code*, a landlord cannot refuse to lease an accommodation because of disability.<sup>46</sup> The definition of disability includes physical disability, physical reliance on an animal, mental impairment, and mental disorder.<sup>47</sup> The *Accessibility for Ontarians with Disabilities Act 2005* defines a service animal as an animal that is required or used for purposes related to the disability.<sup>48</sup>

As in Saskatchewan, types and numbers of pets allowed are typically governed by municipal by-laws.<sup>49</sup>

## **History of the Ontario Legislation**

Provincial legislation protecting the rights of renters to have pets was first passed in Ontario in 1990 in the form of an amendment to *The Landlord and Tenant Act*.<sup>50</sup> This amendment delineated limited situations in which tenants could be evicted as a result of pet-related issues.<sup>51</sup> Regardless of any “no pet” provision in tenancy agreements, tenants could only be evicted if their pet had caused or contributed to “substantial interference with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants”<sup>52</sup> or to an allergic reaction in another resident.

Publicity surrounding the situation of Mr. and Mrs. Ryll and their cat Fluffy prompted the amendment.<sup>53</sup> The Rylls were evicted from their apartment because they had a sixteen-year-old cat in violation of the “no pets” policy. They appealed the eviction arguing that the cat had not caused any harm to the apartment or to other tenants.<sup>54</sup> While they were aware of the “no pets” policy, affordable housing was difficult to find, and they were very attached to the cat.

Ultimately, the decision was against them and they chose to move rather than abandon their cat.<sup>55</sup> Publicity continued as the couple worked to change pet tenancy laws in collaboration with the Federation of Metro Tenants’ Associations who ultimately named them Tenants of the Year.<sup>56</sup>

A private members bill to ban any lease clauses prohibiting pets was introduced by Mr. Ed Phillip (NDP MLA) February 6, 1989 in the midst of the Rylls’ fight to avoid eviction.<sup>57</sup> His statement mentioned the Rylls and the reports of 10,000 pets euthanized annually by tenants to avoid eviction.<sup>58</sup> Over a year later, in June 1990, the *Landlord and Tenant Amendment (Animals) Act*<sup>59</sup> had First Reading introduced by Hon Minister Ian Scott (Liberal MLA).<sup>60</sup> The legislation was passed in the final few days of the legislative sitting with much political back and forth including criticism about the late introduction of the bill.<sup>61</sup> Ultimately, the bill passed and came into force June 28, 1990.

*The Landlord and Tenant Act*<sup>62</sup> was replaced in 1997 with the *Tenant Protection Act*.<sup>63</sup> This legislation included the statement that “no pets” clauses in tenancy agreements are void in its current form.<sup>64</sup> No explanation or justification for the change to this simplified version was found in committee minutes or Hansard related to the Act.<sup>65</sup>

## **ATTEMPTED LEGISLATION IN MANITOBA**

In 2010, Manitoba Liberals attempted to pass legislation similar to the current Ontario ban on “no pets” policies in 2010 but failed with landlords arguing that they have the right to decide if pets are allowed on their property.<sup>66</sup> The bill did not obtain approval at second reading.<sup>67</sup> Proponents noted potential health benefits for pet owners and preventing pets from being euthanized to avoid eviction.<sup>68</sup> Opponents disputed the existence of a significant health benefit and noted concerns about pet allergies among other tenants.<sup>69</sup> Landlords were

concerned about pets causing damage to rental properties.<sup>70</sup> The governing NDP preferred maintaining the status quo where pets were allowed at the discretion of the landlords.<sup>71</sup>

## **CONCLUSION**

Saskatchewan currently has no legislation concerning residential tenancies and pets. Lease agreements can ban pets and tenants can be evicted for having pets if the original lease agreement specifically excluded pets and/or if the pet has resulted in a breach of the lease and/or the *SKRTA*. Changing the status quo requires public pressure and political will as illustrated by the experience in Ontario and Manitoba. Landlords and residential property owners will likely resist a change to a regime similar to Ontario where the default position is that pets are allowed. Continuing to allow pet fees and/or pet deposits to cover potential pet-related damage and repairs would likely soften this resistance.

## **RECOMMENDATIONS**

It is highly recommended by many organizations across various provinces that do not have specific legislation regarding tenancies with pets that renters create pet provisions or add addendums to their lease with their landlords.<sup>72</sup> The Saskatchewan law is very unclear in regards to residential tenancies with pets, therefore it is recommended as best practice to be as transparent and proactive as possible to avoid disputes. Including a written pet clause or addendum in the tenancy agreement is the best way to avoid conflict and resolve disputes over pets. Although there are some concerns that speaking up may result in a landlord including a no-pet policy in the lease, this is the best way to provide clarity for both the landlord and tenant.

*This document does not contain legal advice.*

*This document was prepared with the assistance of PBSC University of Saskatchewan law student volunteers. PBSC volunteers are not lawyers and they are not authorized to provide legal advice. This document contains general discussion of certain legal and related issues only. If you require legal advice, please consult with a lawyer.*

---

<sup>1</sup> 2006, SS 2006, c R-22.0001 [*SKRTA*].

<sup>2</sup> See City of Saskatoon, by-law No 7860, *The Animal Control Bylaw, 1999*, Schedule 5.

<sup>3</sup> Regina Humane Society, "Pet Friendly Housing: STRATA Council Guide" (no date), online: *Regina Humane Society* <<https://reginahumanesociety.ca/programs-services/municipal-services/alternatives-to-admission/pet-friendly-housing/pet-friendly-housing-strata-council-guide/>>.

<sup>4</sup> See *SKRTA*, *supra* note 1.

<sup>5</sup> *Schneider v Rapchuk & Anor*, 2022 SKORT 3456.

<sup>6</sup> *The Saskatchewan Human Rights Code*, 2018, SS 1979, c S-24.1[*Human Rights Code*].

<sup>7</sup> See *SKRTA*, *supra* note 1.

<sup>8</sup> See *ibid* at s 49(5)-(6).

- <sup>9</sup> See *ibid* at s 58(1)(g).
- <sup>10</sup> See *ibid* at ss 58(1)(d)(i); City of Saskatoon, by-law No 7860, *The Animal Control Bylaw, 1999*, s 15.
- <sup>11</sup> See *SKRTA*, *supra* note 1 at s 58(1)(h)(i).
- <sup>12</sup> *Bracken Financial Services Inc v MY*, 2016 SKORT 2328.
- <sup>13</sup> Tenant Rights, “Tenant rights and landlord rights in Saskatchewan” (no date), online: *Tenant Rights* <<https://tenantrights.ca/facts/saskatchewan#pet-and-smoking>>.
- <sup>14</sup> See *SKRTA*, *supra* note 1 at s 22.
- <sup>15</sup> *Broadstreet Properties Ltd v Sastaunik*, 2022 SKORT 2328 [*Sastaunik*].
- <sup>16</sup> See *SKRTA*, *supra* note 1 at ss 24-39.
- <sup>17</sup> Regina Humane Society, “Pet Friendly Housing: Renters Guide” (no date), online: *Regina Humane Society* <<https://reginahumanesociety.ca/programs-services/municipal-services/alternatives-to-admission/pet-friendly-housing/pet-friendly-housing-renters-guide/>>.
- <sup>18</sup> See *Sastaunik*, *supra* note 15.
- <sup>19</sup> Letter (email) from Jason Vanjoff, Saskatchewan Office of Residential Tenancies Dispute Resolution Facilitator (27 March 2023).
- <sup>20</sup> See *SKRTA*, *supra* note 1 at s 32.
- <sup>21</sup> See *ibid* at s 25(1).
- <sup>22</sup> See *ibid* at s 25(2).
- <sup>23</sup> See *ibid* at ss 22, 53.1.
- <sup>24</sup> See *ibid*.
- <sup>25</sup> See *ibid* at s 38(5).
- <sup>26</sup> See *ibid* at s 22.
- <sup>27</sup> See *Human Rights Code*, *supra* note 6 at s 11; Saskatchewan Human Rights Commission, “Policy on Support Animals” (no date), online: *Saskatchewan Human Rights Commission* <<https://saskatchewanhumanrights.ca/education-resources/policies-guidelines/policy-on-support-animals/>> [*SKHRC*].
- <sup>28</sup> *Roberts Properties Inc v OS*, 2018 SKORT 177 at para 42-45.
- <sup>29</sup> See *SKHRC*, *supra* note 27.
- <sup>30</sup> See *Human Rights Code*, *supra* note 6 at s 11.
- <sup>31</sup> See *ibid* at s 2(1).
- <sup>32</sup> See *SKHRC*, *supra* note 27.
- <sup>33</sup> See *Human Rights Code*, *supra* note 6 at ss 29-50.
- <sup>34</sup> See *ibid*.
- <sup>35</sup> Government of Saskatchewan, “Office of Residential Tenancies” (no date), online: *Government of Saskatchewan* <<https://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/office-of-residential-tenancies>>.
- <sup>36</sup> See *ibid*.
- <sup>37</sup> See *ibid*.
- <sup>38</sup> *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, s. 14 [*ONRTA*].
- <sup>39</sup> *Goetz v. Kay*, 2020 ONSC 924, 2020 CarswellOnt 1644.
- <sup>40</sup> Devry Smith Frank LLP, “Renting in Ontario: What Every Pet Owner Needs to Know” (27 January 2017), online: <[www.devrylaw.ca/renting-in-ontario-what-every-pet-owner-needs-to-know/](http://www.devrylaw.ca/renting-in-ontario-what-every-pet-owner-needs-to-know/)>.
- <sup>41</sup> *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, s. 105.
- <sup>42</sup> *Ibid*.
- <sup>43</sup> See *SWL-94855-16 (Re)*, 2016 CanLII 88168 [*ON LTB*].
- <sup>44</sup> See *ONRTA*, *supra* note 38 at ss 34, 62.
- <sup>45</sup> See *ibid* at ss 64, 66.
- <sup>46</sup> *Human Rights Code*, RSO 1990, c H.19, s 2(1).
- <sup>47</sup> *Human Rights Code*, RSO 1990, c H.19, s 10(1).
- <sup>48</sup> *Accessibility Standards for Customer Service*, O Reg 429/07, s 4(9)(a) and 4(9)(b).
- <sup>49</sup> See Toronto Municipal Code, C 349, Animals, 19 Aug 2022, § 349-5 and Schedule A.

- <sup>50</sup> Ontario (1980) "c 232 Landlord and Tenant Act," Ontario: Revised Statutes: Vol. 1980: Iss. 4, Article 7. Online: <digitalcommons.osgoode.yorku.ca/rso/vol1980/iss4/7>.
- <sup>51</sup> Ontario (1990) "c 19 Landlord and Tenant Amendment (Animals) Act, 1990," *Ontario: Annual Statutes*: Vol. 1990, Article 21. online: <digitalcommons.osgoode.yorku.ca/ontario\_statutes/vol1990/iss1/2> [ON LTA 1990].
- <sup>52</sup> See *ibid* at s 2.
- <sup>53</sup> See Alfred Holden "Owner vows to leave apartment as judge orders Fluffy the cat out", *The Toronto Star* (3 February 1989) A9; Jane Armstrong "Disabled tenant fights to keep cat", *The Toronto Star* (17 January 1989) A6.
- <sup>54</sup> *Cassandra Towers v. Ryll*, 1989 CarswellOnt 598, [1989] O.J. No. 1233.
- <sup>55</sup> Jeffrey Freedman, "Tenant group celebrates victories", *The Sunday Star* [Toronto] (26 November 1989) C4.
- <sup>56</sup> See *ibid*.
- <sup>57</sup> Ontario, Legislative Assembly, *Hansard*, 34-1, (6 February 1989) at 1330 (Marion Bryden), online: <hansardindex.ontla.on.ca/hansardECAT/34-1/L141-1.htm>.
- <sup>58</sup> *Ibid* (Ed Phillip).
- <sup>59</sup> See *ON LTA 1990*, *supra* note 51.
- <sup>60</sup> Ontario, Legislative Assembly, *Hansard*, 34-2, (18 June 1990) at 1510 (Hon Ian Scott), online: <hansardindex.ontla.on.ca/hansardecat/34-2/1048\_90-5.htm>.
- <sup>61</sup> Ontario, Legislative Assembly, *Hansard*, 34-2, (27 June 1990) at 2110, online: <www.ola.org/en/legislative-business/house-documents/parliament-34/session-2/1990-06-27/hansard#P1338\_402921>.
- <sup>62</sup> *Landlord and Tenant Act*, RSO 1990, c L.7, online: </digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1217&context=rso>.
- <sup>63</sup> Ontario (1997) *Tenant Protection Act*, 1997, SO 1997, c 24, online: <https://qweri.lexum.com/w/onlegis/so-1997-c-24-en>.
- <sup>64</sup> *Ibid* at s 15.
- <sup>65</sup> See Ontario, Standing Committee on General Government transcripts, 5 August 1997 to 4 September 1997, online: www.ola.org/en/legislative-business/committees/general-government/parliament-36/transcripts and Ontario, Legislative Assembly, *Hansard*, 36-1, 12 May 1997 to 13 May 1997 and 28 May 1997, online: <www.ola.org/en/legislative-business/house-documents/parliament-36/session->.
- <sup>66</sup> "Claws clipped on Fluffy's Law" (11 May 2010), online: *CBC News* www.cbc.ca/news/canada/manitoba/claws-clipped-on-fluffy-s-law-1.900940.
- <sup>67</sup> Manitoba, *Bills Dealt With In The House Fourth Session, Thirty-ninth Legislature 2009-2010*, (November 30, 2009 to June 17, 2010), online: <web2.gov.mb.ca/bills/39-4/billstatus.en.pdf>.
- <sup>68</sup> "Bill 218–The Residential Tenancies Amendment Act (Protecting Tenants Who Own Pets)", 2nd reading, *Legislative Assembly Of Manitoba Debates*, 39-4, (11 May 11 2010) at 1000 (Hon Jon Gerrard).
- <sup>69</sup> *Ibid* at 1015 (Hon Gord Mackintosh).
- <sup>70</sup> *Ibid*.
- <sup>71</sup> *Ibid* at 1055 (Hon Doug Martindale).
- <sup>72</sup> Regina Humane Society, "Pet Friendly Housing: Renters Guide" (no date), online: *Regina Humane Society* <https://reginahumanesociety.ca/programs-services/municipal-services/alternatives-to-admission/pet-friendly-housing/pet-friendly-housing-renters-guide/>.