

Butt out in apartment, Quebec judge rules

Last Updated: Friday, April 18, 2008 / 10:07 AM ET, cbc.ca

CBC News

<http://www.cbc.ca/canada/montreal/story/2008/04/18/mtl-apt-smoking.html>

A Quebec court has ordered a pack-a-day smoker to butt out in her apartment, because the landlord had clearly indicated the flat was non-smoking.

In a ruling released Thursday, a Quebec court judge overturned a rental board decision from last summer that ruled Sandra Fowler had the right to smoke in her Ville Emard apartment, which is located directly above the landlord's home.

Fowler argued she should be allowed to smoke because there was nothing in her lease prohibiting it, and the Quebec rental board judge agreed.

But landlords Matthew Newland and Olesia Koretski said Fowler filled out a separate, homemade form when she signed her lease in August 2006 that indicated smokers were not welcome, because Koretski was pregnant at the time and has asthma.

Fowler, whom the landlords said had written she was a non-smoker, claimed not to have seen the question. On Thursday, the judge ruled that the form did have legal bearing on the lease, and that the landlords have the right to enforce a smoking ban in their building.

Landlord Olesia Koretski said she was happy with the outcome, but sorry the issue had to be resolved in court. "It wasn't easy for me, for my family. I'm happy with the judgment but I don't wish this on anyone," she told CBC News. "I wish it was resolved in a different way"

Fowler has already agreed to move out in June.