

Butt out at home: Smoking tenant loses on appeal

Rental board ruling overturned. Smokers' rights group, tobacco firms offered support to renter for legal fight

April 18, 2008

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Ville Émard duplex owner Olesia Koretski, who's asthmatic, is breathing a lot more easily this morning. So are her 10-month-old son, Luka, and her husband, Matthew Newland. Quebec Court yesterday ordered Koretski's tenant - pack-a-day smoker Sandra Fowler - to never again light a butt within the 51/2-room flat that she has occupied since Aug. 1, 2006, directly above Koretski's family home.

"We're very happy, very relieved and thankful to the judge and to our lawyer, Anna Klisko," Koretski said last night. Fowler, a sales representative, had moved in without telling Koretski - a 29-year-old emergency-room nurse at the Jewish General Hospital - that Fowler was a tobacco smoker.

The smell of Fowler's smoke became quickly obvious to Koretski and Newland, a Concordia University grad student in philosophy.

But when the couple took Fowler to the Quebec Rental Board, they lost. Claudine Novello of the rental board ruled last July 4 that Fowler could puff away to her heart's content, because the official lease did not contain a no-smoking clause.

Koretski had, however, spelled out two basic ground rules - "Absolutely no pets and no smokers," using boldfaced capital letters - when she had Fowler fill out a home-made form in July 2006 providing job references, phone numbers and other information.

Fowler told the rental board that she had noticed the "no pets" rule - and negotiated an exemption with Koretski to cover her small dog.

But, Fowler also told the rental board, she'd simply never noticed the "no smokers" rule. That contention by Fowler was not credible, Quebec Court Judge Normand Amyot ruled. To all appearances, this is also a loss for Big Tobacco. Lawyer Alfredo Mancini, who is understood to charge at least \$300 an hour and argued on Fowler's behalf at a hearing last Nov. 30, refused to tell The Gazette just how large a bill Fowler had racked up.

Nor would he say who was signing the cheques in the battle over smoking rights in a \$710-a-month flat, unheated. Mancini had argued before Amyot that the court had no option under law but to accept Fowler's version of events, as relayed to the rental board, as unvarnished truth.

"I don't hate smokers," Koretski said last night. "I have friends who smoke. "Some people are respectful. Some people are not." Fowler, she noted, had already agreed to move out at the end of June.

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