

Residential Tenancies Act 2004

Private Residential Tenancies Board Tribunal

Report of Tribunal Reference No: TR 07/DR72/2009. Case Ref No: DR72/2007.

Appellant Landlord: Padraig O' Mahony

Respondent Tenant: Stanistan Drapata

Address of Dwelling: 3 Bloomfield, Ringaskiddy, Co. Cork.

Tribunal: Eoin O'Sullivan (Chairperson)
Mary Morris
Bill Holohan

Date of Hearing: 20th March 2009

Venue: Cork County Council, Carrigrohane Straight, Cork

Attendees:

For the Appellant: None

For the Respondent: Stanislaw Drapata

In Attendance: PRTB Representative: Adrian McGrath
Gwen Malone Stenographers Ltd

Background.

In October of 2004 the Respondent Tenant entered into a 12 month lease agreement, which was renewed in October 2005, for the dwelling subject to a rent of €650 per month, plus a security deposit of €650. The Respondent Tenant vacated the dwelling in October 2006. The Appellant Landlord inspected the dwelling in the presence of the Tenant on 22nd October 2006 and it was claimed by the Tenant that the Landlord agreed to return the deposit of €650. At a later stage, the Landlord informed the Tenant that he identified a problem with the shower unit which required €830 to remedy and therefore would not be returning the security deposit.

On the 19th July 2006, the Tenant sought the dispute application services of the Private Residential Tenancies Board (PRTB) seeking the return of the security deposit. An Adjudication was held initially on 18th February 2008 and again on 22nd July 2008 and a report subsequently issued to the parties. The Determination of the Adjudicator was that the Landlord return, in full, the security deposit of €650 to the Tenant, within five days of receiving the Order. On the 4th November 2008, the Landlord appealed the Adjudicator's determination on the grounds that while he was unwilling to return the full deposit to the Tenant, he was willing to make a settlement.

The PRTB appointed Eoin O`Sullivan (Chairperson), Bill Holohan and Tony Taafe as a Tenancy Tribunal to hear the appeal pursuant to sections 102 & 103 of the 2004 Act. Mr. Tony Taafe was later replaced by Mary Morris.

On the 20th March 2009 the Tribunal convened a hearing at 10.00 am at the offices of Cork County Council.

Findings of the Tribunal:

The Appellant Landlord did not attend nor did he provide prior notice or good reason for his failure to attend. In the absence of the Appellant Landlord to move his appeal, the Tribunal upholds the findings of the Adjudicator.

Determination:

The Tribunal under Section 108 (1) of the Act determines that:

1. The Appellant Landlord shall refund the deposit in the sum of €650 to the Respondent Tenant Stanistan Drapata, within 5 days from the date of issue of this Determination Order.

2. In addition, the Appellant Landlord did not attend to present his appeal nor did he provide good reason for his failure to attend. As a consequence, and pursuant to Section 115(2)(i) of the 2004 Act, the Landlord shall pay the sum of €3,000 to the Private Residential Tenancies Board, within 5 days of the date of issue of this Order, being a contribution towards the cost of the Tribunal.

The Tribunal hereby notifies the Private Residential Tenancies Board of the Determination made on 25 March 2009.

Signed:

Eoin O'Sullivan, Chairperson
For and on behalf of the Tribunal.