

RESIDENTIAL TENANCIES ACT 2004 (The Act)

Private Residential Tenancies Board Tribunal

Report of Tribunal Reference No: TR33/DR1324/2010: Case Ref No: DR1324/2008

Appellant Landlord: Ethel Meehan

Respondent Tenant: X

Address of Rented Dwelling: Z (The Dwelling)

Tribunal: Orla Coyne (Chairperson)
Gene Feighery
Liam Nolan

Venue: Millenium Room, Bridge House Hotel,
Tullamore, County Offaly

Date of Hearing: 10th May 2010 at 11am

For the Appellant: Ethel Meehan (“The Landlord”)

For the Respondent: X (Tenant)
(Tenant’s father)
(Tenant’s mother)
Edel Lamb (Midland Letting)

In Attendance: Carla Reynolds (PRTB Representative)
Gwen Malone Stenographers

1. Background:

1. On the 17th October 2008 the Tenant made an application to the Private Residential Tenancies Board (“the PRTB”) pursuant to Section 78 of the Residential Tenancies Act, 2004 (“the Act”). The matter was referred to an oral adjudication on 10th July 2009. The Adjudicator determined that the Tenant was entitled to a return of the deposit of €700 from the Landlord, less the sum of €350 for the cost of making good the deterioration caused to the dwelling by the Tenant over and above “fair wear and tear”.
2. Subsequently a valid appeal was received by the PRTB from the Landlord on the 7th December 2009. On the 27th January 2010 the PRTB constituted a Tenancy Tribunal and appointed Orla Coyne, Gene Feighery and James Bridgeman Tribunal member pursuant to Sections 102 and 103 of the Act and appointed Orla Coyne to be the chairperson of the Tribunal (“the Chairperson”). Subsequently, James Bridgeman was replaced by Liam Nolan.
3. On the 29th March 2010 the parties were notified of the constitution of the Tribunal and provided with details of the date, time and venue set for the hearing. Subsequently, an adjournment was requested and granted to the Landlord. A new date was set for the hearing and on the 10th May 2010 the Tribunal convened a hearing at 11a.m. at the Millenium Room, Bridge House Hotel, Tullamore, Co. Offaly.

2. Documents submitted prior to the Hearing:

- PRTB file

3. Documents submitted at the Hearing:

- No additional documentation was submitted.

4. Procedure

The Chairperson asked the parties present to identify themselves and to identify in what capacity they were attending the Tribunal.

She confirmed with the parties that they had received the relevant papers from the PRTB in relation to the case and that they had received the PRTB document entitled “Tribunal Procedures”.

She explained the procedure which would be followed; that the Tribunal was a formal procedure but that it would be conducted in as informal a manner as was possible. The person who appealed (the Appellant) in this case would be invited to present her case first including her witnesses; there would be an opportunity for cross examination by the Respondent; the Respondent would then be invited to present his case, including the evidence of any witness, and that there would be an opportunity for cross-examination by the Appellant. She said that the members of the Tribunal might ask questions of both Parties from time to time. The Chairperson explained that following this both Parties would be given an opportunity to make a final submission if necessary.

She stressed that all evidence would be taken on Oath and would be recorded by the official stenographer present and she reminded the parties that knowingly providing false or misleading statements or information to the Tribunal was an offence punishable by a fine of €3,000 or up to six months imprisonment or both.

She also reminded the Parties that as a result of the Hearing that day the Board would make a Determination Order which would be issued to the Parties and could be appealed to the High Court on a point of law only pursuant to Section 123 (3) of the 2004 Act.

She asked the Parties if they had any queries about the procedure. There were none. The Chairperson requested all those persons giving evidence be sworn. The oath was administered to the Appellant Landlord and the Respondent Tenant, his father, his mother and Ms. Lamb.

5. Submissions by the Parties:

Appellant Landlord's Case:

The Appellant Landlord gave evidence that she was appealing the Adjudicator's report as she believed that it had not dealt with breach of a number of conditions in the Lease which she had with the Respondent Tenant. There was a Lease between the Appellant Landlord and the Respondent Tenant which commenced on 7th February 2008 and was a fixed term Lease for six months. A security deposit of €700 had been paid and rent was €700 per month. The initial letting had been arranged through Edel Lamb of Midland Letting. The Appellant Landlord stated that the Respondent Tenant was in breach of Condition No. 2.2 of the Lease which dealt with the Tenant's obligation to pay any public authority charges relating to the dwelling.

The public charge that the Appellant Landlord was referring to was the public authority's water charge in the sum of €60. The Appellant Landlord was questioned by the Tribunal and stated that as the Lease was only for six months she was looking for the Respondent Tenant to pay €30 of this charge.

She did say, when questioned by the Tribunal, that it was a private group water scheme and not under the control of the public authority. It was called the Meelaghan's Group Water Scheme.

The second breach of a condition which she alleged that the Respondent Tenant had made was under Condition No. 2.11, which was to allow "the Landlord reasonable access to the Dwelling to carry out any works for which the Landlord is responsible" which related to the matter of the central heating breaking down. She stated that she believed that she had resolved the matter of the central heating and the boiler to everyone's satisfaction as quickly as she could and that she had paid €480 by the end of March to have it completed. She was asked by the Tribunal if she had been refused entry to carry out any repairs that were necessary to the Dwelling and she said no, that neither she nor her representatives were refused entry at any time by the Respondent Tenant.

The next condition which the Appellant Landlord alleged the Tenant had breached was Condition No. 2.15, which was not to cause any act which would cause the deterioration of the Dwelling which would be above "normal wear and tear." In relation to this element of her claim, she stated that because the Tenant had a dog that had lived in the Dwelling, she further referred to Condition 2.30 of the Lease, whereby it states that unless the Landlord had previously approved in writing, the Tenant was not allowed to keep a pet in the Dwelling. She stated that there had been no permission sought and that her agent at the time from Midland Letting, she believed, was also not aware that the Respondent Tenant had a dog. She went on to state that she believed the dog was not a house dog, as it was a boxer. She said she knew that it was in the Dwelling because when she attended at the Dwelling she could see the dog, which was barking at her through the sitting-room window and standing up on her leather couch. The Landlord had also produced other photographs to show damage done to the Dwelling by both the dog and the Respondent Tenant. She alleged that she had to replace the carpet throughout the house because of the amount of dog hair that was around the house and because there was a smell of dog throughout the dwelling. She also alleged that the house was not cleaned and that there was dampness around the window, which she alleged, was because the Respondent Tenant hadn't cleaned the windows. She also stated that although there was mention when the Respondent Tenant first took up occupancy that the carpet was badly stained, this was not the reason why she replaced the carpet, but because of the damage done to it by the Respondent Tenant's dog. She also said that she had to replace the beds as they smelled of the dog and of damp and she said there was dog hair all around the edge of the iron-framed bed.

Another Condition that the Appellant Landlord contended that the Respondent Tenant breached was under Condition 2.18 which was to keep the garden tidy and well-tended. The Landlord had furnished photographs to the Tribunal to support her contention.

The Appellant Landlord also stated that the Respondent Tenant was in breach of Condition 2.35 as the Respondent Tenant had not given her a copy of a Notice received concerning the Dwelling. When questioned by the Tribunal, the Appellant Landlord clarified that she was waiting for a Motor Tax Disc to arrive, as a result of which she had to call to the cottage to collect her post. She accepted that a strict interpretation of Condition 2.35 did not relate to what her complaint was. It appeared to the Tribunal that the difficulty arose with her collecting post. She claimed that an arrangement had been made through the letting agent that was to allow her collect her post. When she took over the management of the Dwelling after she had returned to Ireland, she had not needed the services of an agent and had dealt with the Respondent Tenant herself. She went on to state that there was never a difficulty with the previous tenant, as the post was left in a box in the loft area adjacent to the Dwelling. It was put to the Appellant Landlord as to how the Respondent Tenant would be aware of such an arrangement. The Appellant Landlord accepted that she could not and that how the post was dealt with was overlooked when the Respondent Tenant moved into the Dwelling. She said that she had subsequently spoken with her former Agent who made contact with the Respondent Tenant's father as he lived locally, in order to get permission to go and collect the post. She herself also contacted the Respondent Tenant's father to advise him of when she would arrive at the Dwelling to collect the post. However, difficulties arose between the Appellant Landlord and the Respondent Tenant; during a visit to collect the post, she stated that she noted that furniture she had stored in the loft area was damaged. She also stated that she observed the garden was not being maintained. She contacted the Respondent Tenant. She put to the Respondent Tenant that she believed the dog had caused damage to the furniture in the loft area. The Respondent Tenant did not accept this. In relation to the garden he stated that the lawnmower had broken down and that he would fix it and have the grass cut. She said this was the only time that she had ever spoken with the Respondent Tenant and she felt that he was very aggressive towards her. She also went on to state that the Respondent Tenant had also accused her of intruding on his privacy and requested that she did not call to the Dwelling again.

The Appellant Landlord did state that she had carried out an inspection in June with Edel Lamb (her former agent) and when they went through the house she did notice that there was a pervasive smell of dog, although the dog itself was not there. When her agent asked her did she wish to terminate the Tenancy, she said that she did not want to do so because the Respondent Tenant's wife had just had their first baby and she did not want to disrupt them, as there were only another two months in any event to run on the Tenancy. She alleges that at that stage the damage was already done to the Dwelling. However she was asked whether any of this had been put in writing to the Tenant and she replied no.

The Appellant Landlord went on to outline a further breach of the Conditions of Lease, namely condition no. 2.41 (b) which stated that the Tenant would be responsible to pay any expenses that had been incurred as a result of the Respondent Tenant's failure to comply with other terms of the agreement. She stated that she had had to pay the group water

scheme charges, replace the carpets in two bedrooms, the sitting-room and the hall because of the dog hair and smell, which cost her €790. There was a cup stain on the piano and that a coffee table was broken. A TV aerial had been brought into the house through the side of a window. A photograph was produced of the damage to the wall, showing the hole in the wall where the cable had been brought into the Dwelling. She also stated that she had to paint the bedroom, the sitting-room, the front room and hall because of dampness and damage above wear and tear caused by the dog.

She said that the garden was not maintained properly and that the weeds were sprayed by the Respondent Tenant while they lived there, as a result of which she lost plants and shrubs.

The Appellant Landlord then dealt with the termination of the Tenancy. She said that she telephoned the Tenant to advise that she would attend the Dwelling on 7th August 2008 and that she would carry out an inspection of the Dwelling on that day. Her call was not returned by the Respondent Tenant, and she attended at the Dwelling on the 7th August. There was nobody present and she let herself into the Dwelling. She was there approximately five or ten minutes when the Respondent Tenant's father attended at the Dwelling. The Respondent Tenant's father stated that she was a day early, which she did not accept. The Appellant Landlord said she was not going to discuss the matter of the Dwelling with the Respondent Tenant's father as she wanted to carry out the inspection with the Respondent Tenant. She stated that she did say to the Respondent Tenant's father that the house was fine but that she wanted to see the Respondent Tenant. She said she had made the comment that the house was fine because she did not want to get into a discussion with the Respondent Tenant's father as the Lease was between her and the Respondent Tenant. In relation to the return of the deposit she told the Respondent Tenant's father that she would speak to the Respondent Tenant directly himself about it as at that stage she wanted to talk to the Respondent Tenant about him keeping a dog in the Dwelling.

The Appellant Landlord stated that she felt that because the Respondent Tenant had not contacted her at the end of the Tenancy that it was irresponsible of him and also that he had not complied with the conditions of the Lease as outlined above. She also stated that he had not handed the keys of the Dwelling back to her; therefore she had not been in a position to deal with the condition of the Dwelling with him.

She said the keys had been returned to Midland Letting and not to her. She said that at that stage Midland Letting were no longer acting on her behalf. She stated that there was no rent book because the rent was paid by direct debit and therefore there was no reason for a rent book to be produced. The Appellant Landlord also said that she believed that she had acted in a businesslike manner throughout the Tenancy, she did not enter the Dwelling without permission, and neither did she arrive at the Dwelling and demand her post. She accepted there was no question of arrears of rent. She stated that she did not contact the

Respondent Tenant in writing to advise him that she was not returning his deposit. She had tried to contact him by telephone but he did not respond.

Cross-examination by (father of Respondent Tenant)

It was put to the Appellant Landlord as to who had issued the keys initially at the commencement of the Tenancy. The Appellant Landlord replied that it was Edel Lamb of Midland Letting. the father of Respondent Tenant also put to the Appellant Landlord that as the letting had been done through Midland Letting that the keys should have been returned to them. The Appellant Landlord did not accept this as she said by the end of the Tenancy Midland Letting was no longer involved. The Respondent Tenant's father also asked the Appellant Landlord whether the repairs to the boiler had been dealt with appropriately. The Appellant Landlord accepted that the number that was given for a repair man that could be contacted should anything go wrong with the Dwelling, did not in fact work and she further accepted that the Respondent Tenant had to have the boiler repaired as the Dwelling would otherwise have been without heating. There was no maintenance contract. The Appellant Landlord stated that she was not aware the Dwelling was damp when the Respondent Tenant took up occupancy as she was not there when it was initially rented to him but as she had lived in the Dwelling prior to renting it she did not accept that it was damp. The Appellant Landlord also stated that she could not recall meeting the Tenant more than once during the Tenancy. When it was put to her as to whether or not she used to attend at the Dwelling without any notice, the Appellant Landlord replied that it was not frequently but it did happen occasionally. She also admitted that she had attended at the Tenant's father's house but that she had no idea how often she did this.

The Respondent Tenant's father stated that when he met the Appellant Landlord at the Dwelling he believed that she had arrived a day early before the ending of the Tenancy and that she had let herself in. He stated that the Respondent Tenants had vacated the Dwelling but that there were a number of articles left to be taken away in the garage but that they had cleared the Dwelling. In relation to the meeting with her in the Dwelling he said that it was a cordial conversation and he asked her was she happy with the Dwelling and she had agreed that she was. He did not accept that she was not prepared to deal with him because on every other occasion prior to that when she had called to his own house she had no difficulty dealing with him.

The Respondent Tenant's Evidence

Mr. X Senior gave evidence on behalf of his son the Respondent Tenant. He stated that he believed that on return of the Dwelling to the Appellant Landlord, its condition was no worse than that which would occur due to normal wear and tear. The Respondent Tenant said that the stain on the piano had been there when they first took up occupancy of the Dwelling. He also stated that the dog was professionally trained in respect of its behaviour,

and that it was a short-haired animal and did not shed its hair. With regard to consent for keeping a dog in the Dwelling, they regarded it as a family member, but accepted that it was in breach of Condition 2.30 which required the written permission of the Appellant Landlord to keep a pet in the Dwelling.

He also stated that he did not accept that it was a necessity to remove the carpets because there was a smell of dog or dog hair on them. He said that the Dwelling had been left in a rentable condition after it was vacated. He was asked by the Tribunal about the dampness in the Dwelling. He said that it was a damp house because it was constructed of mass concrete walls and had no insulation or dry lining. He said there was mould in the house when the Tenancy commenced, behind the beds close to the floors, and that this was only noticed some time after the Dwelling was occupied. He said that because his son is a chronic asthmatic, he would never had a dog that would shed hair because he would be very sensitive to dog hair and he did not accept the allegation made by the Appellant Landlord that the house had a dog smell in it or indeed that the dog had shed its hair.

In respect of the arrangement with regard to the post, he said that there was no particular formal arrangement and in fact he had suggested to the Appellant Landlord that she have her post re-directed as he had told her that it was not appropriate for her to keep calling to the Dwelling and using the post as an excuse to be there.

The Respondent Tenant's father also stated that when the Appellant Landlord contacted him at his own house, he reiterated to her that the matter of the post had to be dealt with as it was not appropriate for her to attend at the Dwelling as his son and daughter-in-law were being deprived of quiet enjoyment of the Dwelling. He also stated that he did not agree that the garden was not being looked after as he stated this was an area he knew quite a lot about and of was a particular interest to him. The photographs which the Respondent Tenant had admitted into evidence were produced and he stated that the photographs had been taken two weeks before the Tenancy ended. He stated that while he did use a herbicide it was a systemic herbicide directed at nettles only. In fact, in certain areas he painted weeds with an appropriate herbicide. He stated that he also cut the grass together with his son, however the two lawnmower that were left by the Appellant Landlord did not work and he used to take over his own lawnmower to cut the grass.

In relation to the alleged damage to furniture in the loft area, he stated that there were actually two entrances to the loft area, one which had a lock on it, but the second was a door which was always ajar and it was not possible to close it. Anybody or anything could gain access through it. He said the dog did not go into the area because it was quite dangerous. He did not accept that any damage had been caused to any items that were in the loft area.

The Respondent Tenant said the first time that he met the Appellant Landlord when she came to the Dwelling, he brought out a huge pile of post to her. He claimed that she

constantly invaded his privacy and arrived unannounced. He said that his wife was very concerned about how often she called. He said he did not receive the voice-mails that the Appellant Landlord had claimed she had left. He did accept that he had had a cable for the cable TV pass through the wall beside the window. He had engaged a professional to insert the cable. He did not ask for permission. He said that he had put it in to receive Sky TV. The Tribunal brought Condition 2.24 of the Lease to his attention which states the Tenant is under obligation “not to alter or improve or allow others to alter or improve the Dwelling, including the locks and alarm systems or to run any cable through it, nor to erect any television or radio aerial or satellite dish in accordance with Section 16 Subsection 1 of the 2004 Act.” He agreed that the insertion of the cable was in breach of this condition.

In relation to the damp in the Dwelling he said there was damp and mould in the Dwelling when he took up occupancy. Although they had tried to clean it, it came back, it was constantly there and that this is in fact what he believed had caused the smell in the house. He said in relation to the grass, they had mowed the lawn a number of times and had the garden maintained as his father did most of the maintenance on the garden.

In respect of the dog, he said it did not sleep in any beds, that he had a dog bed for it and that it was a fully-trained dog.

Evidence of Mrs. X (mother of Respondent Tenant)

Mrs. X stated that her daughter-in-law was very upset with the frequency of the Appellant Landlord’s visits to the Dwelling. She also confirmed that there was a smell in the Dwelling, not of dog, but she thought possibly some sort of a small animal like a mouse may have died in the attic. She stated that she believed that her daughter-in-law was so upset with the visits that her son about a month prior to the ending of the Tenancy had approached Edel Lamb to see if she could find another property for them to rent.

Edel Lamb’s Evidence

Edel Lamb stated that the Appellant Landlord had employed her to rent the property while she was out of the country. She also dealt with the Appellant Landlord’s daughter and thereafter, when the Appellant Landlord returned the Tenant dealt directly with the Appellant Landlord in relation to maintenance or any issues or queries they had in relation to the Dwelling. She agreed that an inspection was carried out with the Landlord in June. When it was put to Ms. Lamb if she was not at that stage still engaged by the Appellant Landlord or how did it come about that she went with the Appellant Landlord to the Dwelling and inspected it with her in June. She said it arose because she had been

contacted and advised that there were a number of issues that the Respondent Tenant had with the Appellant Landlord, especially with the Appellant Landlord arriving at the Dwelling unannounced. The Respondent Tenant had contacted her about this.

She said she only carried out a visual inspection, she did not pull out any furniture and as far as she could remember no issues had arisen as a result of the inspection. She said that the Respondent Tenant was present at the inspection also. But the Appellant Landlord did have an issue with the dog. She said she was not aware of whether she had pointed out at the commencement of the Tenancy to the Respondent Tenant that it was not permitted to have an animal in the Dwelling without the written permission of the Landlord. In relation to the post, she said that she did not know there was any arrangement with regard to the post, she did not know what was to happen with it, that generally a Landlord would have any post redirected.

She said in respect of the return of the keys, she said that the Respondent Tenant decided to return the keys to her office, even if the agreement had ceased between her and a Landlord, they would always take the keys and would advise the Landlord that they were with them.

She said that she did not notice a damp smell or any other smell in the Dwelling. She said that in the course of that inspection in June there was nothing brought to her attention about a smell. She did not see any deterioration. When the question was put to her by the Respondent Tenant's father as to whether she had difficulty getting new accommodation for his son, she said there was no difficulty whatsoever.

Cross-examination

The Appellant Landlord put it to the Respondent Tenant that while the dog did not damage furniture, couches or carpets, there was a smell of dog and that the reason the carpet was replaced was because of dog hair and the smell of the dog. The Respondent Tenant replied that there was no hair on the carpet as the dog was a short-haired breed and also that the carpet was vacuumed before they left.

He also went on to state that the carpet was in a very bad condition in any event and needed replacing. He was also asked what condition the Dwelling was in after he left and he said he believed that anybody could have moved into it. He did not believe that the house was in a bad state. He did admit there was a smell but it was not from his dog. He stated he believed it was the mould and damp which caused the smell.

He was also asked by the Appellant Landlord why he had not sought the return of his deposit. He responded that he had gone to Midland Letting and had said that he would pick up the deposit from them. He was told to come back in a week or two and that he should then be able to collect the whole deposit. He said that when he went back in he was told

that he was not going to be getting his deposit back, and that he did not contact the Appellant Landlord because all his dealings had been with Midland Letting.

He was also asked did he have his father represent him at the end of the Tenancy and he said yes, he said that he did not want to contact the Appellant Landlord as he had given the keys to Midland Letting. He thought that they would carry out an inspection and that he would then get his deposit back from Midland Letting.

When the Respondent Tenant was asked had he read the Lease Agreement, he said he had not, that he was not aware of a number of the conditions in the Lease.

The Tribunal asked the parties did they wish to sum up. Both said they would.

Appellant Landlord's Summation

The Appellant Landlord stated that she was not aware that the Respondent Tenant was so intolerant of her visits. She thought that everything was all right between them and she was not aware that she had been intruding. She said that she only wanted to attend at the Dwelling to pick up her post. She said she also believed that the Respondent Tenant would live up to the terms and conditions of the Lease, but he had admitted that he had not read it. She further went on to state that because the dog was in the house there was a lot of dog hair and the carpets were going to have to be replaced as a result. She further stated that the Tenant did not ask for his deposit back and made no effort at all to communicate with her.

Respondent Tenant's Summation

The Respondent Tenant's father spoke on behalf of the Respondent Tenant and said that it was not noticed at the commencement of the tenancy that there was damp and mildew within the Dwelling. Because of the condition, style and age of the house it would have been difficult to repair. He went on to state that the grass was well tended.

He stated that the Respondent Tenants could not enjoy the tenancy because of the alleged persistent appearances of the Appellant Landlord at the Dwelling. Both the Respondent Tenant and his wife found it very distressing and believed the difficulty the Appellant Landlord had was that because as the Dwelling was her home, she may have missed it and wanted to be back there. The Respondent Tenant did not withhold the last month of his rent and allow the deposit to be used, instead he ensured that the final month's rent was paid. He is now a Tenant in another Dwelling and has no difficulty there. The new letting by the Respondent Tenant was obtained by Midland Letting, the same company that had arranged the letting with the Appellant Landlord.

6. Findings of the Tribunal and the Reasons Therefor:

1. The Tribunal found that the evidence from both parties was at times conflicting; however the rent had been paid up to date. The security deposit in the sum of €700 had been paid to the Appellant Landlord and had not been returned by her to the Tenant after the Tenant had left the Dwelling, as she believed that the Tenant was in breach of a number of conditions under the Lease.
2. The Tribunal does not find the Respondent Tenant in breach of the terms of the Lease in respect of having to pay a public authority charge, as the water scheme was a private group water scheme and not under the control of the public authority.
3. In respect of the alleged breach by the Tenant under Condition 2.11 there was no evidence whatsoever that the Respondent Tenant prevented the Appellant Landlord from entering the Dwelling.
4. In respect of the alleged breach of Condition 2.15 dealing with damage to the Dwelling above “normal wear and tear”, the evidence heard and the documentation produced at the hearing did not substantiate the allegation of damage to the Dwelling above wear and tear, except in one instance whereby the Tenant had, without the consent of the Landlord, put the cable for Sky TV through the wall of the Dwelling, involving a hole being created in the wall by the company he had engaged to install Sky TV in the Dwelling. A photograph produced showed the damage done to the wall in doing so. Accordingly, the Tribunal finds that the Tenant was responsible in respect of this matter and in breach of the condition of the Lease, causing damage to the Dwelling above normal wear and tear.
5. In respect of the dog in the Dwelling, the Tribunal finds that the Tenant was also in breach of condition 2.30 of the Lease by not obtaining in writing, prior to his occupancy of the Dwelling, consent from the Landlord to have the dog in the Dwelling.

However, the Appellant Landlord did not produce any evidence to show that the Dwelling was affected by dog hair and a smell of dog after the Respondent Tenants left, which necessitated her to replace the carpets and repaint a certain portion of the Dwelling.

6. The failure as alleged by the Appellant Landlord to keep the garden tidy and well tended was not supported by evidence produced by the Appellant Landlord. The photographs produced by the Respondent Tenant were more compelling as was the evidence given by the Tenant’s father of his tending to the garden throughout the course of the term of the Lease.

7. The evidence given by the Respondent Tenant and his father as to the number of times that the Appellant Landlord attended at the Dwelling and at the home of his father to collect her post and discuss matters is accepted. The Appellant Landlord stated that she assumed that the arrangement in respect of leaving the post in the loft would have been continued with the Respondent Tenant. However the Respondent Tenant was not told of such an arrangement and this was supported by the agent who had initially been instructed by the Appellant Landlord.
8. The Tribunal finds that the Appellant Landlord's attendance at the Dwelling on a number of occasions caused some disturbance to the tenant however; the Tribunal did not deem her attendance sufficient to award damages. .
9. As to the termination of the Tenancy, there was a conflict about whether or not the Appellant Landlord had attended at the Dwelling the day before the termination of the Tenancy, however at that stage the Tenants had already vacated but had left some of their possessions there.

7. Determination:

Ref: TR33/DR1324/2010

In the matter of Ethel Meehan (Appellant Landlord) and X (Respondent Tenant) the Tribunal in accordance with Section 108 (1) of the Residential Tenancies Act determines that:

- The Appellant Landlord shall pay the sum of €350 to the Respondent Tenant, within 14 days from the date of issue of the Determination Order by the Board, being a portion of the retained deposit of €700, having deducted the sum of €350 for damage to the Dwelling above normal wear and tear and his failure to obtain the consent of the Landlord in writing to keep a pet in the Dwelling.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on this 12th day of July 2010.

Signed:

Orla Coyne (Chairperson)
For and on behalf of the Tribunal