

**RESIDENTIAL TENANCIES ACT 2004**

**Private Residential Tenancies Board Tribunal**

**Report of Tribunal Reference No: TR01/DR568/2011 Case Ref No:DR568/2010**

**Appellant Tenant:** Donal Traynor

**Respondent Landlord:** Anna Murphy

**Address of rented Dwelling:** Flat 2, 106 Sundrive Road,  
Dublin 12  
("the dwelling")

**Tribunal:** Geraldine Feeney (Chairperson)  
Fintan Mc Namara  
Nesta Kelly

**Venue:** PRTB, Floor 2, O' Connell Bridge House,  
D'Olier Street, Dublin 2

**Date of Hearing:** 16 March 2011 at 10.30am

**Attendees:**

**For Appellant:** No appearance was made by the Tenant

**For the Respondent:** Anna Murphy (Landlord)  
Rory Murphy (Landlord's son & representative)

**In Attendance:** Gwen Malone Stenographers

## **1. Background:**

1. On 28 April 2010 the Tenant made an application to the Private Residential Tenancies Board (“ the PRTB”) pursuant to Section 78 of the Act. The matter was referred to an adjudication which took place on 27 October 2010. The Adjudicator determined that the Applicant’s claim that he had a right to use the passage referred to as a storage area failed. Subsequently a valid notice of appeal was received from the Tenant:

The grounds of appeal being:

- a). the Tenant’s goods had been thrown in the back garden of the dwelling on the instructions of the Landlady.
  - b).the adjudicator had left the file for this case in his car.
2. The Board at its meeting on 12 January 2011 approved the referral to a Tenancy Tribunal of the appeal. The PRTB constituted a Tenancy Tribunal and appointed Geraldine Feeney, Liam Nolan and Nesta Kelly as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Geraldine Feeney to be the chairperson of the Tribunal (“ the Chairperson”). Fintan Mc Namara replaced Liam Nolan.
  3. On 21 February 2011 the Parties were notified of the constitution of the Tribunal and provided with details of the date, time and venue set for the hearing. The hearing was arranged for 10 February 2011 and was subsequently postponed.
  4. On 16 March 2011 the Tribunal convened a hearing at 10.30 a.m. at the offices of the PRTB, Floor 2 O’ Connell Bridge House, D’Olier Street, Dublin 2.

## **2. Documents Submitted Prior to the Hearing Included:**

PRTB file

## **3. Documents Submitted at the Hearing Included:**

None

#### **4. Procedure:**

As there had been no appearance by or on behalf of the Appellant Tenant by 10.50 a.m. and as the Tribunal was satisfied that he had received due notice of the hearing; the chairperson convened the hearing. She explained to those present that as the Appellant Tenant had not appeared, nor had anyone on his behalf, the appeal could not therefore proceed and that the Board would confirm the Determination of the Adjudicator.

#### **5. Findings of the Tribunal and Reasons Therefor:**

The Tribunal confirms the Determination of the Adjudicator in the Adjudication Case number DR468/2010 carried out on 27 October 2010 and Determination dated 8 November 2010.

The Tribunal further determines the following matter:

In the special circumstances where the Appellant Tenant, Donal Traynor failed to appear at the hearing or to ensure that someone should appear on his behalf to enable the appeal to proceed, the Tribunal under section 115 (2) (i) of the Residential Tenancies Act 2004 (and section 109 rules) directs that the Appellant Tenant shall pay the sum of €3,000 to the Private Residential Tenancies Board being part of the costs incurred by the Tribunal in dealing with the dispute.

#### **6. Determination:**

Ref: TR01/DR 568/2011

In the matter of Donal Traynor (Appellant Tenant) and Anna Murphy (Respondent Landlord) in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Appellant Tenant failed in his claim against the Respondent Landlord and no award will be made by the Tribunal to the Appellant Tenant:
2. The Appellant Tenant shall pay the sum of €3,000 to the Private Residential Tenancies Board being part of the costs incurred by the Tribunal in dealing with the dispute in the special circumstances where the Appellant Tenant failed to attend at the hearing of his appeal, such sum to be paid within 14 days of the issue of the Order made by the Board, in respect of the tenancy of the dwelling at Flat 2, 106 Sundrive Road, Dublin 12

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on this 18 day of March 2010.

**Signed:**

**Geraldine Feeney Chairperson**  
For and on behalf of the Tribunal