

RESIDENTIAL TENANCIES ACT 2004

PRIVATE RESIDENTIAL TENANCIES BOARD TRIBUNAL

REPORT REFERENCE NO: TR06/DR1477/2011 CASE NO: DR 1477/2010

Appellant Landlord:	Anthony Dunne
Respondent Tenant's Executors:	Paul Creagh Jacinta Creagh (Executors of Estate of Joan Sara McDonnell Deceased)
Address of Rented Dwelling:	The Mews, Islington Avenue, Dun Laoghaire, Co. Dublin
Tribunal:	Nesta Kelly (Chairperson) Liam Nolan Geraldine Feeney
Venue:	Tribunal Room, PRTB Offices, O'Connell Bridge House, D'Olier Street, Dublin 2
Date and time of Hearing:	10 February 2011 at 2.30 p.m.
Attendees:	
For the Appellant:	Non- Appearance
For the Respondents:	Paul Creagh – Tenants Executor Jacinta Creagh - Tenants Executor Justin McKenna, Solicitor for Respondents Partners At Law
In Attendance:	Gwen Malone Stenographers

1. Background:

On the 21 September 2010 the late Tenant's Executors 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 15 October 2010. The adjudicator determined that the Landlord pay the sum of €17,000 to the Tenant's estate within fourteen days, being damages of €15,000 for unlawful termination of the tenancy and €2,000 damages for the unlawful removal and loss of furniture and effects. Subsequently a valid appeal was received from the Landlord by the PRTB on 22 December 2010.

The grounds of the appeal being that the Landlord was known to the Adjudicator. The Landlord alleged there was a conflict of interest he should have stepped aside from the hearing.

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 Nesta Kelly, Liam Nolan and Geraldine Feeney as Tribunal Members pursuant to sections 102 and 103 of the Act and appointed Nesta Kelly to be the Chairperson of the Tribunal ("the Chairperson")

On 20 January 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

On 10 February 2011, the Tribunal convened a hearing at 2.30 p.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 including grant of Probate to the Tenants Executors

3. Documents Submitted at the Hearing:

None

4. Procedure:

As there had been no appearance by or on behalf of the Appellant Landlord by 2.50p.m, and as the Tribunal was satisfied that he had received due notice of the hearing; the chairperson convened the hearing at which the late Tenant's Executors and their solicitor were present. She explained to those present that as the Appellant Landlord 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 DR1477/2010 carried out on the 15 day of October 2010 and Determination dated the 29 day of November 2010.

The Tribunal further determines the following matter:

In the special circumstances where the Appellant Landlord, Anthony Dunne 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 Landlord 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: TR06/DR1477/2011

In the matter of Anthony Dunne (Appellant Landlord) and Paul Creagh and Jacinta Creagh (Respondent Tenant's Executors) the Tribunal in accordance with Section 108(1) of the Residential Tenancies Act 2004, determines that;

1. The Appellant Landlord shall pay the sum of €17,000 to the estate of the late Respondent Tenant within fourteen days of the issue of the Order made by the Board, being damages of €15,000 for the unlawful termination of the tenancy and €2,000 for the unlawful removal and loss of furniture and effects, in respect of the tenancy of the Mews, Islington Avenue, Dun Laoghaire, Co. Dublin .

2. The Appellant Landlord shall further 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 Landlord failed to attend at the hearing of his appeal, such sum to be paid within fourteen days of the issue of the Order made by the Board.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on this 11 day of February 2011

Signed

Nesta Kelly, Chairperson
For and on behalf of the Board