**Private Residential Tenancies Board**

## RESIDENTIAL TENANCIES ACT 2004

**Report of Tribunal Reference No: TR0115-001007 / Case Ref No: 0914-14422**

**Appellant Tenant:** Becky Griffin

**Respondent Landlord:** Claude Dienstag, Ariane Dienstag

**Address of Rented Dwelling:** Lecanvey Lodge, Lecanvey, Westport, Co.Mayo

**Tribunal:** Deirdre Bignell (Chairperson)

Finian Matthews, Healy Hynes

**Venue:** Council Chamber, Sligo County Council, County Hall, Riverside, Sligo.

**Date & time of Hearing:** 25 June 2015 at 11:30

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| **Attendees:** | Walsh Auctioneers & Estate Agents, Respondent Landlord's Representative |
| **In Attendance:** | Gwen Malone Stenographers |

**1. Background:**

On 29/09/2014 the Applicant 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 28/11/2014. The Applicant Tenant did not appear at the hearing. The Adjudicator determined that:

1. The Applicant Tenant’s application, regarding breach of landlord obligations and standard and maintenance of dwelling and unlawful termination of tenancy, in respect of the tenancy of the dwelling at Lecanvey Lodge, Lecanvey, Westport, Co Mayo, are not upheld.

Subsequently a valid appeal was received from the Appellant Tenant on 28/01/2015. The grounds of appeal were Breach of Landlord Obligations and Standard and Maintenance of the Dwelling. The Board approved the appeal on 20/02/ 2015.

The PRTB constituted a Tenancy Tribunal and appointed Deirdre Bignell, Finian Matthews, Healy Hynes as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Deirdre Bignell to be the chairperson of the Tribunal (“the Chairperson”).

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 25 June 2015 the Tribunal convened a hearing at Council Chamber, Sligo County Council, County Hall, Riverside, Co.Sligo.

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

PRTB File

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

NA

**4. Procedure:**

The Chairperson asked the party present to identify herself and to indicate the capacity in which she was attending the Tribunal. The Chairperson confirmed with the party that she had received the relevant papers from the PRTB in relation to the case and that she had received and understood the PRTB document entitled “Tribunal Procedures”.

The Chairperson explained that the Tribunal hearing, as stated in its procedures, was not intended to be very formal, but that parties must follow any instructions given by the Chair.

The Chairperson stressed that all evidence would be taken on oath or affirmation and recorded by the official stenographer present and that, based on that recording, a transcript could be made available to the Tribunal if necessary to assist it in preparing its report on the dispute, or to the parties for a fee.

The Chairperson reminded the attending party that it was an offence for anyone giving evidence to refuse to take the Oath or Affirmation, to refuse to produce any document in her control required by the Tribunal, to refuse to answer any question put by the Tribunal, or to knowingly provide false or misleading statements or information to the Tribunal. The Chairperson informed the party that the above offences were punishable by a fine of up to €4,000 or up to 6 months imprisonment or both.

The Chairperson said that members of the Tribunal would ask questions from time to time to assist in clarifying the issues in dispute between the parties, and informed the party that she would clarify any queries raised at the outset, or in the course of, the hearing. The Chairperson also reminded the party that as a result of the hearing, the Board would make a Determination Order which would be issued to the both parties to the dispute and could be appealed to the High Court on a point of law only [reference section 123(3) of the 2004 Act].

The Chairperson noted that the Appellant Tenant had previously informed the PRTB that she would not be in a position to attend the Tribunal hearing, and that her mother would be attending in her stead. No request had been made by the Appellant Tenant for the Tribunal to proceed to hear the appeal solely on the basis of written submissions.

When there was no appearance on behalf of the Appellant Tenant by 11:50 a.m., the Chairperson stated that in the absence of the Appellant Tenant the Tribunal proposed to uphold the Adjudicator’s determination in relation to the dispute between the parties, subject to any submission the representative of the Respondent Landlords might wish to make in relation to the costs of her attendance, given that these are likely to be borne by the Respondent Landlords.

The party was then sworn in.

**5. Submissions of the Parties:**

**The Appellant Tenant’s case:**

There was no appearance on behalf of the Appellant Tenant, nor did she furnish any written request for the appeal to be considered solely on the basis of written submissions.

**The Respondent Landlords’ Case:**

**Evidence of Teresa Walsh (representative of the Respondent Landlords):**

Ms Walsh submitted that she had incurred costs of approximately €200 in attending the Tribunal hearing.

The Chairperson thanked the representative of the Respondent Landlords for attending and advised her that following the hearing the Tribunal would prepare a report and notify the PRTB of its Determination in the report.

**6. Matters Agreed Between the Parties**

None.

**7. Findings and Reasons:**

Having considered all the evidence, the Tribunal’s findings and reasons therefor, based on the balance of probabilities, are set out hereunder:

The Tribunal upholds the findings and determination of the Adjudicator in relation to the matters in dispute between the parties, subject to awarding to the Respondent Landlords, the costs of having their agent attend the Tribunal hearing.

Pursuant to section 115(2)(d), which provides that a tribunal may direct that a specified amount of damages or costs or both be paid, the costs of the Respondent Landlords’ agent in attending the hearing of the Appellant’s appeal, are to be borne by the Appellant Tenant. This award is made in light of the Appellant having failed to attend, or have a representative attend, the hearing of the appeal, and having failed to request that the appeal proceed in her absence and on the basis of her written submissions.

**8. Determination:**

**Tribunal Reference TR0115-001007**

**In the matter of Becky Griffin (Tenant) and Claude Dienstag, Ariane Dienstag (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:**

1. The Appellant Tenant’s application, regarding breach of landlord obligations and standard and maintenance of dwelling and unlawful termination of tenancy, in respect of the tenancy of the dwelling at Lecanvey Lodge, Pier Road, Lecanvey, Westport, Co Mayo, is not upheld.

2. The Appellant Tenant shall pay the sum of €200.00 to the Respondent Landlords within 14 days of the date of issue of this Order, in accordance with section 115(2)(d) of the Act, being the costs incurred by the Respondent Landlords in having an agent attend the Tribunal hearing.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 16/07/2015.

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| **Signed:** | H:\Common\Signatures\Adjudicators\Deirdre Bignell.png |

**Deirdre Bignell Chairperson**

For and on behalf of the Tribunal.