**Private Residential Tenancies Board**

## RESIDENTIAL TENANCIES ACT 2004

**Report of Tribunal Reference No: TR0215-001021 / Case Ref No: 0314-10874**

**Appellant Landlord:** Pat Vaughan, Freda Vaughan

**Respondent Tenant:** Lorraine Shanahan, Nigel Shanahan

**Address of Rented Dwelling:** Morenane, Askeaton , Co. Limerick,

**Tribunal:** Mary Doyle (Chairperson)

Vincent P. Martin, Andrew Nugent

**Venue:** Exhibition Area, Limerick City Council, City Hall, Merchant's Quay, Limerick

**Date & time of Hearing:** 14 July 2015 at 11:00

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| **Attendees:** | Gwen Malone stenographers |
| **In Attendance:** | Attendees:  For the appellant landlord : Pat Vaughan, ( first named Appellant), Freda Vaughan ( second named Appellant)  For the respondents tenants: Nigel Shanahan ( first named Respondent), Lorraine Shanahan ( second named Respondent) |

**1. Background:**

On 11/03/2014 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 Paper Based Adjudication which took place on 11/11/2014. The Adjudicator determined that:

The Respondent Landlords shall pay the total sum of €490 to the Applicant Tenants, within 21 days of the date of issue of the Order, being the unjustifiably retained portion of the security deposit of €700, having deducted €210 damages for the Tenants' breach of their obligations under the Act, in respect of the tenancy of the dwelling at Morenane, Askeaton, Co. Limerick.

Subsequently the following appeals were received:

Landlord : received on 10/02/2015. The grounds of the appeal: Deposit retention, Standard and maintenance of dwelling ; Approved by the Board on 20/02/2015

The PRTB constituted a Tenancy Tribunal and appointed Mary Doyle, Vincent P. Martin, Andrew Nugent as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Mary Doyle to be the chairperson of the Tribunal (“the Chairperson”).

On 10/06/2015 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 14/07/2015 the Tribunal convened a hearing at Exhibition Area, Limerick City Council, City Hall, Merchant's Quay, Limerick.

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

* 1. PRTB File

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

NONE

**4. Procedure:**

The Chairperson asked the Parties to identify themselves and to identify the capacity in which they were attending the Tribunal. She asked the Parties to confirm that they had received the relevant papers from the PRTB and that they had received the PRTB document entitled “Tribunal Procedures”. She also asked both parties if that they had filled in the PRTB Confirmation of Address Form and to hand these forms into the Tribunal. The Chairperson explained the procedure which would be followed; that the Tribunal was a formal procedure but that it would be held in as informal a manner as was possible; that the party who requested to refer the Dispute to the Tribunal, the Appellants would be invited to present their case first; that there would be an opportunity for cross-examination by the Respondent; that the Respondent would then be invited to present his case, and that there would be an opportunity for cross-examination by the Appellants. The Chairperson explained that following this, both parties would be given an opportunity to make a final submission.

The Chairperson stressed that all evidence would be taken on oath or affirmation and be recorded by the official stenographer present and he reminded the Parties that knowingly providing false or misleading statements or information to the Tribunal is an offence punishable by a fine of up to €4,000 and/or up to 6 months imprisonment or both.

The Chairperson 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 Residential Tenancies Act, 2004, hereafter referred to as the Act).

The Parties intending to give evidence were then sworn in.

**5. Submissions of the Parties:**

Appellant Landlord's case

The first named Appellant Landlord stated that the property was left in an appalling condition both inside and out. He stated that dogs were let into the house. The Appellant landlord stated that there was an agreement that dogs could be kept on the property in a shed some distance away from the main house and that a run was to be constructed by the Respondent Tenants for the dogs. It was expressly stated by the Appellant Landlord that dogs were not to enter the house.

The first named Appellant Landlord stated that rubbish was left under trees on the property, that grease/yellow cooking oil was discarded into a drain and that this had overflowed onto the footpath. He stated that 12-15 pieces of white aero board were burnt in the fire grate damaging the grate. He further stated that the garage floor was left in an appalling condition and that that there were 15 pallets in the shed belonging to the Respondent Tenants and he did not know what to do with these pallets.

The first named Appellant Landlord stated that he inspected the house for the second time a week after the Respondent Tenants had vacated and had found a large bag of rotting carrots covered in flies which had not been there at the initial inspection.

The first named Appellant Landlord stated that they did not get the original key back from the Respondent Tenants. He informed the Gardai in Askeaton, Co. Limerick about this matter and their advice was to change the locks which he did on 10/07/2013.

The second named Appellant Landlord stated that the cooker and grill were covered in grease, that the washing machine drawer was clogged which caused leaking, that the wc was covered in faeces and was filthy. She further stated that there was a lot of rubbish left in the attic and that there was a large stain on a green carpet which was covered by a mat.

The second named Appellant Landlord stated that there were items missing from the house i.e. the iron and ironing board, Hoover parts, grill pan, etc. She further stated that the television set was broken and that she had never been informed about this.

The Respondent Tenants case

The Respondent Tenant did not wish to cross examine the Appellant Landlords and preferred to go to their direct evidence.

The first named Respondent Tenant stated that they left the house in a spotless condition and that there were no pallets left in the shed as stated by the Appellant Landlord. He further stated that if a bag of rotting carrots was found on the premises that this was not caused by the Respondent Tenants.

The second named Respondent Tenant stated that she did indeed lose the original key the previous October/November and therefore was not in a position to return the original key.

She further stated that she had cleaned the house from top to bottom herself and that at no time had they a deep fat fryer. Further more she stated that she had taken nothing from the house upon vacating and that she in fact had her own iron and ironing board.

**6. Matters Agreed Between the Parties**

1 There was a tenancy agreement dated 6/7/2012 for a term of 1 year

2 The tenancy commenced on 6/7/2012 and rent was €700 per month

3 The tenancy ended on 6/7/2013

4 The tenants have vacated

5 There was a security deposit of €700

6 The security deposit has been retained by the Landlord

**7. Findings and Reasons:**

The Tribunal finds that the Appellant Landlords were entitled to retain the entire of the security deposit of €700.

Reason 1

The Respondent Tenants agreed at the Tribunal Hearing that the Appellant Landlords were entitled to the sum of €160 for replacement keys and €50 for the removal of concrete from the dog run.

Reason 2

The Tribunal preferred the sworn evidence of the Appellant Landlords together with dated and timed photographs of both the inside, outside and garage of the property showing the condition at the end of the tenancy. The Tribunal considered the photographic evidence to be persuasive. The Tribunal allows €400 be deducted from the security deposit for power cleaning the outside and for cleaning the interior and a deduction of €90 from the security deposit for the replacement of items removed from the property taking into account depreciation together with the agreed amount of €160 for replacement keys and €50 for removal of concrete. The Tribunal finds that the Respondent Tenants caused damage to the condition of the dwelling beyond normal wear and tear which justifies the retention of the entire of the said deposit by the Appellant Landlords.

**8. Determination:**

**Tribunal Reference TR0215-001021**

**In the matter of Pat Vaughan, Freda Vaughan (Landlord) and Lorraine Shanahan, Nigel Shanahan (Tenant) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:**

TRIBUNAL REF:TR0215-001021

Dispute Ref: DR 0314-10874

In the matter of Pat and Freda Vaughan (Appellant Landlords) and Nigel and Lorraine Shanahan (Respondent Tenants) the Tribunal in accordance with section 108 of the Residential Tenancies Act 2004 determines that:-

The Appellant Landlords shall justifiably retain the entire of the security deposit of €700 resulting from the Respondent Tenants breaching their statutory obligations under Section 16 (f) of the Act in respect of the tenancy of the dwelling at Morenane, Askeaton, Limerick.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on this 21st July 2015

Signed

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 22/07/2015.

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| **Signed:** | \\v-1-hq-fs-01\HOME\Common\Signatures\TribunalMembers\Mary Doyle.png |

**Mary Doyle Chairperson**

For and on behalf of the Tribunal.