

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR1114-000922 / Case Ref No: 0714-13249

Appellant Tenant:	Anne Mayden
Respondent Landlord:	Berty Dunne
Address of Rented Dwelling:	Corduff House, Coolcarrigan, Naas , Kildare, W91C898
Tribunal:	John Tiernan (Chairperson) Louise Moloney, Andrew Nugent, Andrew Nugent, Louise Moloney
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	25 June 2015 at 10:30
Attendees:	Berty Dunne, Tribunal Respondent, Landlord; Serena Quinn, Witness on behalf of Respondent Landlord.
In Attendance:	Gwen Malone Stenographers

1. Background:

On 17/07/2014 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 Adjudication which took place on 18/09/2014. The Adjudicator determined that The Notice of Termination served on 24 March 2014, by the Respondent Landlord on the Applicant Tenant, in respect of the tenancy of the dwelling at Corduff House, Coolcarrigan, Naas, Kildare, is valid.

The Applicant Tenant and all persons residing in the above dwelling, shall vacate and give up possession of the above dwelling within 28 days of the date of issue of the Determination Order.

The Applicant Tenant shall pay the total sum of €15,554.35 to the Respondent Landlord within 28 days of the date of issue of the Determination Order, being rent arrears of €14,854.35, plus €1200 for monies due by the Applicant Tenant to the Respondent Landlord, less the sum of €500 for the breach by the Respondent Landlord of his obligation to maintain the dwelling, in respect of the tenancy of the above dwelling.

The Applicant Tenant shall also pay any further rent outstanding from 18 September 2014, at the rate of €2500 per month or proportional part thereof at the rate of €82.19 per day, unless lawfully varied, and any other charges as set out in the terms of the tenancy agreement for each month or part thereof, until such time as she vacates and gives up possession of the above dwelling.

Subsequently the following appeals were received:

Tenant : received on 13/11/2014. The grounds of the appeal: Anti-social behaviour, Breach of landlord obligations, Other, Standard and maintenance of dwelling ; Approved by the Board on 21/11/2014.

The PRTB constituted a Tenancy Tribunal and appointed John Tiernan, Louise Moloney, Andrew Nugent as Tribunal members pursuant to Section 102 and 103 of the Act and appointed John Tiernan to be the chairperson of the Tribunal ("the Chairperson").

On 12/05/2015 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 25/06/2015 the Tribunal convened a hearing at Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2.

2. Documents Submitted Prior to the Hearing Included:

1. PRTB File

3. Documents Submitted at the Hearing Included:

None

4. Procedure:

Having convened at c. 10.12am at the Tribunal Room at PRTB on the morning of 25th June 2015 the Tribunal was presented with a copy of a letter that had been received by email dated 25th June 2015 at the Tribunals Section of PRTB at 9.07am from Cosgrave Solicitors who had been acting on behalf of the Appellant Tenant. The content of the letter included the following text: 'We refer to the above matter and confirm that we no longer act for Ms Anne Mayden in this matter and understand that Ms Mayden will attend this morning to represent herself.'

At the appointed time of 10.30am the Tribunal made enquiries in regard to the attendance of the Parties and was informed that there appeared to be representatives of one party only at that stage awaiting commencement of the Tribunal proceedings. As is customary the Tribunal decided to allow time to enable any Party who may have been delayed in traffic or otherwise some time to arrive. At c. 10.49am the Tribunal was informed that an email from an officer/telephonist at SouthWestern, the PRTB service providers, was received in Tribunals Section at 10.47am purporting to relate the content of a telephone call received at c 10.42am from the Appellant Tenant, which was after the notified commencement time, and which stated: 'Anne Mayden, , Appellant, Tenant called to say she is after having an accident and will not be able to attend the hearing'. The Tribunal sought clarification from the telephonist at SouthWestern in regard to the message that had been conveyed to her and it was clarified that the telephone conversation was not specific in relation to the nature or seriousness of the accident involved. The conversation did include a reference on the part of the Appellant Tenant that she was then going to her doctor. It was clarified to the Tribunal that the telephone call did not include any reference to or request for an adjournment.

The Chairperson opened the proceedings in the presence of the two persons in attendance at 11.00 am. He confirmed to the persons in attendance that the Tribunal had convened and was formally in session. Noting that the two persons in attendance were together and appeared to comprise one party, which was consistent with the content of the information received in the above mentioned communications with the officer/telephonist at SouthWestern, the Chairperson requested those in attendance to identify themselves and to identify the capacity in which they were attending the Tribunal.

It was confirmed to the Tribunal that the two persons in attendance were Mr Vincent Dunne also known as Berty Dunne who is the Respondent Landlord in this case and Ms Serena Quinn his Agent and witness. There was no appearance by the Appellant Tenant or by any person on her behalf.

In the above circumstances noting also that there was no request for an adjournment and that there was no medical or other corroborating evidence the Tribunal deemed the Appeal to be abandoned as in the absence of the Appellant in this case the hearing could not proceed.

The Tribunal informed the Respondent Landlord that in the circumstances where the Appellant Tenant was not in attendance to present her appeal of the Adjudicator's Determination then the Tribunal could not proceed and the Tribunal in such circumstances deem the Appeal to be abandoned. The Tribunal further advised the Respondent Landlord that in such circumstances where the Appeal of the Adjudicator's Determination is abandoned the Adjudicator's Determination stands. Whereas the Respondent Landlord intimated a wish to offer evidence on some matters relating to the dispute which wish was not entertained by the Tribunal he said when specifically questioned by the Tribunal that he did not have any issue with the deemed abandonment per se. The Tribunal further reaffirmed to the Respondent Landlord that it could not hear any evidence relating to the matters in dispute in the case that he might have wished to present. The hearing was then concluded.

5. Submissions of the Parties:

None

6. Matters Agreed Between the Parties

None

7. Findings and Reasons:

The Appeal is abandoned

8. Determination:

Tribunal Reference TR1114-000922

In the matter of Anne Mayden (Tenant) and Berty Dunne (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

The Adjudicator's Determination stands and is as follows:

The Notice of Termination served on 24th March 2014, by the Respondent Landlord on the Applicant Tenant, in respect of the tenancy of the dwelling at Corduff House, Coolcarrigan, Naas, Kildare, is valid.

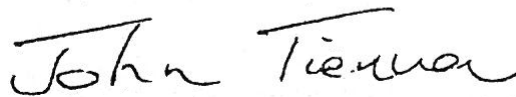
The Applicant Tenant and all persons residing in the above dwelling shall vacate and give up possession of the above dwelling within 28 days of the date of issue of the Determination Order.

The Applicant Tenant shall pay the total sum of €15,554.35 to the Respondent Landlord within 28 days of the date of issue of the Determination Order, being rent arrears of €14,854.35, plus €1200 for monies due by the Applicant Tenant to the Respondent Landlord, less the sum of €500 for the breach by the Respondent Landlord of his obligation to maintain the dwelling, in respect of the tenancy of the above dwelling.

The Applicant Tenant shall also pay any further rent outstanding from 18th September 2014, at the rate of €2,500 per month or proportional part thereof at the rate of €82.19 per day, unless lawfully varied and any other charges as set out in the terms of the tenancy agreement for each month or part thereof, until such time as she vacates and gives up possession of the above dwelling.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 03/09/2015.

Signed:



John Tiernan Chairperson

For and on behalf of the Tribunal.