

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR1213-000538 / Case Ref No: 0313-05002

Appellant Tenant:	Mark Murphy
Respondent Landlord:	Joe Duggan
Address of Rented Dwelling:	Flat 2, Rear Heather House Hotel, Strand Road, Bray , Wicklow
Tribunal:	Gareth Robinson (Chairperson) Orla Coyne, Finian Matthews
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, Dublin 2.
Date & time of Hearing:	09 April 2014 at 2:30
Attendees:	Mark Murphy, Appellant Tenant Joe Duggan, Respondent Landlord Paul McKnight, Solicitor, Felton McKnight Solicitors, Greystones, for the Appellant Tenant.
In Attendance:	Gwen Malone Stenographers

1. Background:

On 11/03/2013 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 Mediation which took place on 12/11/2013. The Mediator determined that:

The said mediation was conducted by a mediator appointed by the PRTB, but same was unsuccessful.

Subsequently an appeal was received from the Tenant on 16 December 2013. The grounds of the appeal were: that the Respondent Landlord had illegally evicted the Tenant, by sending his agents to the premises, packing up his belongings, and asking him to leave. The Appellant Tenant claimed that he was made homeless by these actions, and was forced to live on the beach for approximately two weeks until he found alternative accommodation. The Appeal application was approved by the Board on 10/01/2014

The PRTB constituted a Tenancy Tribunal and appointed Gareth Robinson, Orla Coyne, and Finian Matthews as Tribunal members pursuant to Section 102 and 103 of the Act, and appointed Gareth Robinson to be the chairperson of the Tribunal ("the Chairperson").

On 12/02/2014 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 09/04/2014 the Tribunal convened a hearing at Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, Dublin 2.

2. Documents Submitted Prior to the Hearing Included:

1. PRTB File

3. Documents Submitted at the Hearing Included:

N/A

4. Procedure:

The Chairperson asked the parties to identify themselves and to identify in what capacity they were attending the Tribunal. He confirmed with the Parties that they had received the relevant papers from the PRTB in relation to the case and that they had received the PRTB document entitled "Tribunal Procedures". The Chairperson explained the procedure which would be followed; that the Tribunal was a formal procedure but that it would be as informal as possible; that the person who appealed (in this case the Appellant Tenants) would be invited to present his case first, that there would be an opportunity for cross-examination by the Respondent Landlord; that the Respondent Landlord would then be invited to present his case and that there would be an opportunity for cross-examination by the Appellant Tenant. He also said that members of the Tribunal might ask questions of both parties from time to time.

The Chairperson explained that, following this, both parties would be given an opportunity to make a final submission.

He stressed that all evidence would be taken on oath or by way of 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 was an offence punishable by a fine of €4,000 and/or up to 6 months imprisonment or both.

The Chairperson noted that should the parties indicate that they may be in a position to resolve the dispute through negotiation, and the Tribunal indicated it would facilitate any such negotiation. The terms of any such agreement could be incorporated into a Determination Order of the Tribunal and would be enforceable through the Courts.

The Chairperson also reminded the parties that, at the conclusion of the Hearing that they would submit their findings to the Board who would make a legally binding Determination Order, which would be issued to the parties and could be appealed to the High Court on a point of law only.

At this point the Parties asked for a short period of time in order to finalise the terms of an agreement which had been almost brokered, and to commit same to writing. The Tribunal rose in order to facilitate this.

The parties subsequently requested that the Tribunal return to the hearing room, and at this point the Tribunal was informed that the matter, had been compromised, with the terms being committed to writing.

5. Submissions of the Parties:

N/A

6. Matters Agreed Between the Parties

1. The Tenancy commenced on the 27th of July, 2002
2. The Tenancy terminated on the 12th of February, 2011
3. The address of the premises : Flat 2, Rear Heather House, Strand Road, Bray, Co.Wicklow.

7. Findings and Reasons:

N/A

8. Determination:

Tribunal Reference TR1213-000538

In the matter of Mark Murphy (Tenant) and Joe Duggan (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

The Appellant Tenant and Respondent Landlord compromised the above matter on terms, and committed same to writing. The said written terms, handed in, and same being attached to this Tribunal Report, and the Tribunal makes a Determination Order in the terms agreed between the parties.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 21/04/2014.

Signed:



Gareth Robinson Chairperson

For and on behalf of the Tribunal.