

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR1213-000545 / Case Ref No: 0413-05265

Appellant Landlord:	European Property Fund PLC (successor in title to Vieira Investments Ltd)
Respondent Tenant:	Lukasz Faber
Address of Rented Dwelling:	9 Cruise Park Court, Tyrrelstown , Dublin 15
Tribunal:	Patricia Sheehy Skeffington (Chairperson) John Tiernan, Gene Feighery
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	24 April 2014 at 2:30
Attendees:	For the Appellant: Frank Feeney (Appellant Landlord's Agent) For the Respondent Lukasz Faber (Respondent Tenant).
In Attendance:	Gwen Malone Stenographers

1. Background:

On 04 April 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 Adjudication which took place on 16/10/2013. While on notice, the Landlord failed to attend the adjudication.

The Adjudicator determined that The Respondent Landlord shall pay the total sum of €1493.70 to the Applicant Tenant being the entire of the unjustifiably retained security deposit of €1100, plus over paid rent of €393.70.

Subsequently on 23 December 2013 the Landlord applied to appeal the Adjudicator's determination on the basis of the deposit retention finding. The application for the appeal was approved by the Board on 10 January 2014.

The PRTB constituted a Tenancy Tribunal and appointed Patricia Sheehy Skeffington, John Tiernan and Gene Feighery as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Patricia Sheehy Skeffington 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 24 April 2014 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:

Copies of photographs and emails which had been submitted at the Adjudication, admitted without objection from the Appellant Landlord.

4. Procedure:

The Chairperson asked the Parties to identify themselves and to identify in what capacity they were attending the Tribunal. The Chairperson 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 held in as informal a manner as was possible; that the person who appealed (the Appellant Landlords in this case) would be invited to present their case first; that there would be an opportunity for cross-examination by the Respondent Tenant; that the Respondent Tenant would then be invited to present her case, and that there would be an opportunity for cross-examination by the Appellant Landlord.

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 and be recorded by the official stenographer present and she 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 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 RTA).

The Chairperson also informed the parties that if it seemed that they might be able to resolve their dispute by agreement, the Tribunal would facilitate any such negotiations.

The Parties were then sworn in.

5. Submissions of the Parties:

Having given evidence and made certain submissions, it became apparent that the parties were in substantial agreement in respect of the issues between them. The Tribunal adjourned to facilitate negotiations, which resulted in an agreement between the parties and which was committed to writing. A signed copy of the parties' agreement was

furnished to the Tribunal, which the parties requested be reflected in the terms of the Determination Order of the Tribunal.

6. Matters Agreed Between the Parties

The parties resolved the entirety of their dispute.

7. Findings and Reasons:

Having heard the parties' oral submissions, the Tribunal finds as follows:

1. FINDING

The parties resolved their dispute in full and final settlement of all issues outstanding in respect of the tenancy of the Dwelling at 9 Cruise Park Court, Tyrellstown, Dublin 15, the terms of which agreement forms the Tribunal's determination in this matter.

Reasons

1. A written copy of the terms of the parties' signed settlement agreement was taken for the PRTB file by the Tribunal.
2. The parties expressed the wish that their agreement would have the force of the Tribunal's Determination.

8. Determination:

Tribunal Reference TR1213-000545

In the matter of European Property Fund PLC (successor in title to Vieira Investments Ltd (Landlord) and Lukasz Faber (Tenant) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

In full settlement of their case in respect of the tenancy of the Dwelling at 9 Cruise Park Court, Tyrellstown, Dublin 15, the Appellant Landlord shall pay to the Respondent Tenant the sum of €800 within 24 hours of the Appellant Landlord being furnished by the Respondent Tenant with the Respondent Tenant's bank details.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 30/04/2014.

Signed:



Patricia Sheehy Skeffington Chairperson

For and on behalf of the Tribunal.