

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0114-000562 / Case Ref No: 0913-07887

Appellant Tenant:	Eleanor Gaye
Respondent Landlord:	Jackie Greene Construction Ltd
Address of Rented Dwelling:	2 Hazelpark, Lower Kimmage Road , Dublin 6
Tribunal:	Gareth Robinson (Chairperson) John Tiernan, John FitzGerald
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	07 May 2014 at 10:30
Attendees:	Josephine Conlon, agent for Jackie Greene Construction Ltd, Tribunal Respondent, Landlord
In Attendance:	Gwen Malone Stenographer

1. Background:

On 20/09/2013 the Landlord 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 10/12/2013. The Adjudicator determined that:

The Landlord's application for overholding is upheld in respect of the tenancy of the dwelling at Apartment 2 Hazelpark, Lower Kimmage Road, Dublin 6.

The Respondent Tenant and all persons residing in the above dwelling, shall vacate the dwelling within 14 days of the date of issue of the Order.

The Respondent Tenant shall pay the total sum of €3,890 being rent arrears for the period 01/07/13 to the 10/12/13 in respect of the tenancy of the dwelling at Apartment 2 Hazelpark, Lower Kimmage Road, Dublin 6.

The Respondent Tenant shall also pay any further rent outstanding from the 10th day of December 2013, until such time as she vacates the dwelling.

Subsequently the following appeal was received:

Tenant : received on 09/01/2014. The grounds of the appeal: Invalid Notice of termination ; Approved by the Board on 17/01/2014

The PRTB constituted a Tenancy Tribunal and appointed John Tiernan, Gareth Robinson, John FitzGerald 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 25/02/2014 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 07/05/2014 the Tribunal convened a hearing at Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin.

2. Documents Submitted Prior to the Hearing Included:

1. PRTB File

3. Documents Submitted at the Hearing Included:

N/A

4. Procedure:

Procedure:

The Chairperson asked the party present to identify themselves and to identify in what capacity they were attending the Tribunal. He confirmed with the party present 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 in circumstances where an Appellant party did not attend at the Tribunal. He stated that the Adjudicator's decision would be affirmed, and he invited the Respondent party to make a statement on the dispute if he wished to do so; he said that the Tribunal was a formal procedure but that it would be as informal as possible; .

He explained that members of the Tribunal might seek clarification on his submission. He stressed that the Respondent Landlord's statement would be taken on oath or by way of affirmation and be recorded by the official stenographer present and he reminded him that to 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 also reminded the party present that following the hearing, the Tribunal would issue their findings to the Board and that 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.

5. Submissions of the Parties:

N/A

6. Matters Agreed Between the Parties

Matters clarified:

1. Address of the Tenancy: 2, Hazelpark, Lower Kimmage Road, Dublin 6.
2. Tenancy Commencement Date: 1st June, 2012.

3. Rental Payments: €925 per month.

4. A sum of €1,400 was paid at commencement of Tenancy, which consisted on one month's rent of €925, and a balance of €475 which would go towards a security deposit.

7. Findings and Reasons:

Finding:

To affirm the Adjudicators decision.

Reasons:

The Tenant failed to appear to prosecute her appeal against the adjudicator's determination, and as a result of this the determination of the Adjudicator is affirmed.

8. Determination:

Tribunal Reference TR0114-000562

In the matter of Eleanor Gaye (Tenant) and Jackie Greene Construction Ltd (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1.The Landlord's application for overholding is upheld in respect of the tenancy of the dwelling at Apartment 2 Hazelpark, Lower Kimmage Road, Dublin 6.

2.The Respondent Tenant and all persons residing in the above dwelling, shall vacate the dwelling within 14 days of the date of issue of the Order.

3.The Respondent Tenant shall pay the total sum of €3,890 to the Applicant Landlord, in 11 consecutive monthly payments of €325 per month followed by 1 final payment of €315 payable on the 28th day of each month, commencing the next month after the date of issue of this Order. This sum represents rent arrears of €3,890 for the period 01/07/13 to 10/12/13 in respect of the tenancy of the dwelling at Apartment 2 Hazelpark, Lower Kimmage Road, Dublin 6.

4. The enforcement of the Order for such payment will be deferred and the total sum owing will be reduced by the number of monthly installments made to the Applicant Landlord on each due date until the sum of €3,890 has been paid in full.

5.For the avoidance of doubt any default in the payment of the monthly installment shall act to cancel any further deferral and the balance due at the date of default shall immediately become due and owing to the Applicant Landlord.

6.The Respondent Tenant shall also pay any further rent outstanding from the 10th day of December 2013, at the rate of €925 per month or proportional part thereof at the rate of €30.41 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 the dwelling.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 23/06/2014.

A handwritten signature in blue ink, appearing to read 'Gareth Robinson', is written over a horizontal line.

Signed:

Gareth Robinson Chairperson

For and on behalf of the Tribunal.