

**Private Residential Tenancies Board**

**RESIDENTIAL TENANCIES ACT 2004**

**Report of Tribunal Reference No: TR0213-00000214 / Case Ref No: 0812-02179**

<b>Appellant Landlord:</b>	Campus Services (WIT)
<b>Respondent Tenant:</b>	Kathleen McCarthy
<b>Address of Rented Dwelling:</b>	305B Manor Village, Cork Road , Waterford
<b>Tribunal:</b>	Gareth Robinson (Chairperson) Gene Feighery, Aidan Brennan
<b>Venue:</b>	Conference Room, Dept of Environment, Community and Local Government, Newtown Road, Wexford
<b>Date &amp; time of Hearing:</b>	16 June 2014 at 11:00
<b>Attendees:</b>	Liam McCarthy, Tenants Representative Jacqui O'Connor, Respondent Landlords Representative Ann Troy, Housing Manager
<b>In Attendance:</b>	Gwen Malone - Stenographer

**1. Background:**

On 21/02/2012 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 14/12/2012. The Adjudicator determined that:

The Respondent Landlord shall pay the total sum of €198 to the Applicant Tenant, within 14 days of the date of issue of the Determination Order, being the unjustifiably retained portion of the security deposit of €400, the balance of the deposit not being in dispute, in respect of the tenancy of the dwelling at 305B Manor Village, Cork Road, Waterford

Subsequently the following appeal was received:

Landlord : received on 04/02/2013. The grounds of the appeal: Deposit retention ;  
Approved by the Board on 05/03/2013

The PRTB constituted a Tenancy Tribunal and appointed Gareth Robinson, Gene Feighery, Aidan Brennan 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 20/05/2014 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 16/06/2014 the Tribunal convened a hearing at Conference Room, Dept of Environment, Community and Local Government, Newtown Road, Wexford, County Wexford.

**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 present to identify themselves and to identify in what capacity they were attending the Tribunal. He confirmed with the parties 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".

He explained that members of the Tribunal might seek clarification on submissions. He stressed that the parties evidence would be taken on oath or by way of affirmation and be recorded by the official stenographer present and he reminded them that to knowingly providing false or misleading statements or information to the Tribunal was an offense punishable by a fine of €4,000 and/or up to 6 months imprisonment or both.

The Chairperson also reminded the parties 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:**

The Appellant Landlords evidence;-

The Tenancy commenced in September, 2010 and was part of shared student accommodation at Waterford I.T. The rooms were cleaned and painted prior to new tenants moving in. There were no issues throughout the year in terms of the Applicant and how she interacted with the other students. The Landlords representative gave evidence that an inspection usually takes place once the Apartment has been taken back from the students which is usually the June period. Nobody else has access to the apartments in this period. Access to each apartment was obtained by the key card. The room inspections usually take a month to complete and an Exit Report is drawn up in respect of each apartment after the inspections.

The Respondent Tenants' evidence;-

The Respondent Tenant maintained that when the Dwelling was inspected at the conclusion of her tenancy, she was not advised of any issues arising. It was only when she sought to have her deposit returned that issues were raised by the Appellant Landlord. The representative of the Respondent Tenant raised issues of mildew staining which it was claimed were present in the premises when the tenancy commenced.

The representative of the Respondent Tenant was upset that the Tenant had been blamed for a missing armchair, which was subsequently found in one of the other apartments upon final inspection.

The sums of €36.67 and €8 were also deducted from the deposit to cover ESB and soft furnishing laundry costs, and were not disputed. The retained deposit of €198 consists: painting of kitchen (share) €40, painting of respondent tenants bedroom €125 and deep cleaning costs €33.

## **6. Matters Agreed Between the Parties**

1. Address of Dwelling: 305B, Manor Village, Cork Road, Waterford
2. Tenancy commenced: 1st September 2010,
3. Apartment vacated 12th May 2011
4. Tenancy concluded 31st May, 2011
5. Deposit; €400 paid on commencement.

## **7. Findings and Reasons:**

### **1. Finding**

The Tribunal is satisfied that the Apartment required painting and cleaning once the Tenants had vacated same. The total charge for the remedial works to the kitchen amounted to €200 for painting which is divided between each of the residents in the amount of €40 each and €33 in respect of cleaning relating to the respondent tenant.

#### **Reason**

The Tribunal is satisfied that the kitchen required remedial works in this amount as the entirety of the Apartment had been painted prior to all tenants moving in. In addition to this, the Tribunal is satisfied that a fair and reasonable inspection was carried out by the Appellant Landlords after the tenants had moved out.

### **2. Finding**

The Respondent Tenants bedroom required a full repaint as result of the high level of staining on the walls of same. The cost of this repaint was €125

#### **Reason**

The Tribunal is satisfied on the basis of the evidence given by the Appellant Landlords representatives that the Applicants bedroom was significantly stained and required a repainting upon the conclusion of the Tenancy. The Tribunal is satisfied with the Exit Report produced by the Appellant Landlord, in addition to the evidence given by the representatives in attendance.

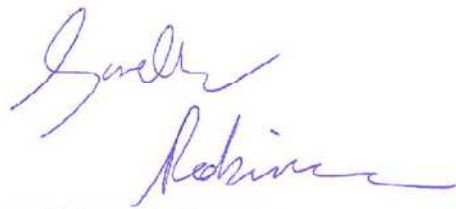
## **8. Determination:**

**Tribunal Reference TR0213-00000214**

**In the matter of Campus Services (WIT) (Landlord) and Kathleen McCarthy (Tenant)  
the Tribunal in accordance with section 108(1) of the Residential Tenancies Act  
2004, determines that:**

The Appellant Landlord is justified in retaining the sum of €198 being the justifiably retained portion of the security deposit in respect of the cleaning and painting of the apartment, the balance of the deposit not being in dispute in respect of the dwelling at 305B, Manor Village, Cork Road, Waterford.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 05/08/2014.

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.