

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0514-000623 / Case Ref No: 1213-09302

Appellant Tenant:	Stan Veaceslav Gligor, Angela Josan
Respondent Landlord:	Pauline Barrett
Address of Rented Dwelling:	76 Kingsbry, Maynooth, Co. Kildare
Tribunal:	John FitzGerald (Chairperson) Gareth Robinson, Gene Feighery
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	25 June 2014 at 2:30
Attendees:	Pauline Barrett, Tribunal Respondent, Landlord, Stan Veaceslav Gligor, Tribunal Appellant, Tenant, Alice Harrison, Barrister on behalf of the Appellant Tenant Shauna Barrett (Respondent Landlord's daughter)
In Attendance:	Gwen Malone Stenographers Mr Chin Buyiyve (Interpreter)

1. Background:

On 05 December 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 20 March 2014. The Adjudicator determined that:

1. The Notice of Termination served on 19 June 2013, by the Applicant Landlord on the Respondent Tenants, in respect of the tenancy of the dwelling at 76 Kingsbury, Maynooth, Co. Kildare, is valid. The Applicant Landlord's application for over-holding in respect of the tenancy of the above dwelling is upheld.
2. The Respondent Tenants, and all persons residing in the above dwelling, shall vacate and give up vacant possession of the dwelling within 28 days of the date of issue of the Order.
3. The Respondent Tenants shall also pay any further rent outstanding from the 20 day of March 2014, at the rate of €1,100 per month, 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 they vacate the above dwelling;
4. The Applicant Landlord shall refund the entire of any security deposit paid by the Respondent Tenants, on gaining vacant possession of the above dwelling, less any amounts properly withheld in accordance with the provisions of the Act.

The Tenant subsequently submitted an appeal which was received by the PRTB on 06 May 2014. The grounds of the appeal: Invalid Notice of Termination. The appeal was approved by the Board on 09 May 2014.

The PRTB constituted a Tenancy Tribunal and appointed John FitzGerald, Gareth Robinson, Gene Feighery as Tribunal members pursuant to Section 102 and 103 of the Act and appointed John FitzGerald 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 25 June 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:

None.

4. Procedure:

The Chairperson asked the Parties present 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) would be invited to present their case first; that there would be an opportunity for cross-examination by the Respondent; that the Respondent would then be invited to present her case, and that there would be an opportunity for cross-examination by the Appellant.

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 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 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 [reference section 123(3) of the 2004 Act].

5. Submissions of the Parties:

Appellant Tenant's Case:

Submission by Alice Harrison, Barrister on behalf of the Appellant Tenant

Ms Harrison gave a brief outline of the circumstances of her client's reasons for appealing and outlined that the Moldovan born gentleman, his wife and six children were in occupation of the dwelling and in receipt of rent supplement. She outlined how some of the children were in need of special medical care and how difficult they had been finding it to obtain an alternative dwelling in the locality. She stated that they would be homeless if forced to leave the dwelling and entered a plea to say that they wished to be given more time to find alternative accommodation.

Respondent Landlord's Case:

The Respondent Landlord opened by stating that she was more than happy with the Appellant Tenant behaviour throughout his tenancy and that all rents were up to date she sympathised with his plight. She wanted vacant possession of the dwelling for her daughter Shauna whom also verified that she needed the use of the dwelling by September 2014.

Settlement reached between the parties:

On the basis of the evidence adduced by the parties, it emerged that they might avail of an opportunity to consider settling their dispute on consent. The Tribunal facilitated this discussion by withdrawing for a period of time. When the Tribunal resumed, the following settlement had been agreed between the parties.

Tribunal Reference: TR0514-000623

Stan Veaceslav Gligor, Appellant Tenant

Pauline Barrett, Respondent Landlord

Address: 776 Kingsbury, Maynooth, Co Kildare

1. That the Appellant Tenant and all persons residing in the above dwelling shall vacate and give up vacant possession of the dwelling by 31 August 2014.
2. That the Appellant Tenant shall also pay any further rent outstanding from 25 June 2014 at a rate of €846.00 per month 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 they vacate the dwelling.
3. The Respondent Landlord shall refund the entire of any security deposit paid by the Appellant Tenants on gaining vacant possession of the above dwelling, less any amounts properly withheld in accordance with the provisions of the Act.

6. Matters Agreed Between the Parties

The following matters were agreed between the Parties:

1. The rent is €900 per month currently having been reduced from original €1,100.
2. The security deposit paid was €1,100.
3. The Tenancy commenced in 2003.

7. Findings and Reasons:

Having considered all the evidence, including the documentary evidence and the oral testimony of each of the Parties herein. The Tribunal's findings and reasons therefor are set out hereunder:

7.1 Finding: The Tribunal determines that in accordance with the agreement reached and entered into between the Parties herein. The Appellant Tenant and all persons residing in the dwelling shall vacate and give up possession of the dwelling by 31 August 2014. The Appellant Tenant shall pay any outstanding rent from 25 June 2014 at a rate of €846 per month unless lawfully varied. The Respondent Landlord shall refund the entire security deposit on gaining vacant possession in accordance with the provisions of the act less any amount properly withheld in accordance with the Act.

8. Determination:

Tribunal Reference TR0514-000623

In the matter of Stan Veaceslav Gligor, Angela Josan (Tenant) and Pauline Barrett (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Appellant Tenant and all persons residing in the above dwelling, shall vacate and give up possession of the dwelling by 31 August 2014.
2. That the Appellant Tenant shall also pay any further rent outstanding from 25 June 2014 at a rate of €846.00 per month, 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 they vacate the dwelling.
3. The Respondent Landlord shall refund the entire of any security deposit paid by the Appellant Tenants on gaining vacant possession of the above dwelling, less any amounts properly withheld in accordance with the provisions of the Act.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 01/07/2014.



Signed:

John FitzGerald Chairperson

For and on behalf of the Tribunal.