

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0514-000647 / Case Ref No: 0913-08061

Appellant Landlord: Ben Galway

Respondent Third Parties: Brian Grant, Kevin Kehoe, Heather Jennings, Paul Walsh, Francis Power, Glenn Gall, Brendan Kiersey, Anthony Power, Vincent Howard, Amy Power, Gerard Power

Address of Rented Dwelling: 18 Christendom Mews, Ferrybank, Kilkenny Via , Waterford

Tribunal: Gareth Robinson (Chairperson)
Gene Feighery, Aidan Brennan

Venue: Conference Room, Department of the Environment, Newtown Road, Wexford

Date & time of Hearing: 08 July 2014 at 11:00

Attendees: Ben Galway, Tribunal Appellant, Landlord,
Kevin Kehoe, Tribunal Respondent, Third Party,
Heather Jennings, Tribunal Respondent, Third Party,
Paul Walsh, Tribunal Respondent, Third Party,
Francis Power, Tribunal Respondent, Third Party,
Glenn Gall, Tribunal Respondent, Third Party,
Anthony Power, Tribunal Respondent, Third Party,
Brendan Kiersey, Tribunal Respondent, Third Party,
Amy Power, Tribunal Respondent, Third Party,
Vincent Howard, Tribunal Respondent, Third Party,
Gerard Power, Tribunal Respondent, Third Party,

In Attendance: Gwen Malone Stenography

1. Background:

On 30/09/2013 the Third Parties 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 08/04/2014. The Adjudicator determined that:

The Respondent Landlord shall pay the total sum of €5000.00 to the Applicant Third Parties within 56 days of the date of issue of the determination order, being damages for failing to enforce the obligations of his tenants in respect of the tenancy of the dwelling at 18 Christendom Mews, Ferrybank, Waterford

Subsequently the following appeal was received:

Landlord : received on 26/05/2014. The grounds of the appeal: Breach of landlord obligations, Anti-social behaviour, Other ; Approved by the Board on 06/06/2014

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 11/06/2014 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 08/07/2014 the Tribunal convened a hearing at Conference Room, Department of the Environment, Newtown Road, Wexford, County Wexford.

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. 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 while the Tribunal Hearing was a formal procedure the Tribunal would seek to be as informal as was possible; that the person who appealed (the Appellant Landlord) would be invited to present his case first including the evidence of any witnesses; that there would be an opportunity for cross-examination by the Respondent Third Parties; that the Respondent Third Parties would then be invited to present their case, including the evidence of any witness, and that there would be an opportunity for cross-examination by the Appellant Landlord. He said that members of the Tribunal might ask questions of both Parties from time to time.

The Chairperson explained that following this, the Appellant Landlord and the Respondent Third Parties would be given an opportunity to make a final submission.

He stressed that all evidence would be taken on oath or affirmation and would be recorded by the official stenographer present, he reminded the Parties that knowingly providing false or misleading statements or information to the Tribunal was an offence punishable by a fine of up to €4,000 or by up to 6 months imprisonment or both. The Chairperson drew the Parties attention to Section 7 of the Tribunal Procedures. He asked the Parties if they had any queries about the procedure, there were no queries.

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].

The Chairperson informed the parties that the PRTB would facilitate them should they see merit in conferring with a view to reaching a consensus agreement at any stage during the Tribunal proceedings.

The Parties giving evidence were then sworn in.

Both parties expressed a willingness to negotiate and a recess was facilitated.

5. Submissions of the Parties:

Appellant landlords Case :

N/A

Respondent Third Parties' Case:

N/A

6. Matters Agreed Between the Parties

1. The Tenancy commenced in early 2010
2. The Tenant remains in occupation of the dwelling at the date of the hearing
3. The monthly rental payments is in the amount of was €500
4. A security deposit of €500 was paid at the commencement of the tenancy

7. Findings and Reasons:

The Tribunal determines that in accordance with the agreement reached and entered into between the Parties herein, the Appellant Landlord agrees to the following:

- To serve notice of termination on his tenant within 5 working days of the date of the Tribunal Hearing (8 July 2014) relating to the tenancy of the dwelling at 18 Christendom Mews, Ferrybank, Waterford and that dwelling will be vacated by 31 August 2014.
- Ensure that all future lettings of the dwelling are carried out through the local Letting Agent.
- Agrees to converse with residents on any future issues that may arise with Tenants.
- Pay damages in the sum of €1,500 to Christendom Residents in three instalments of €500. The first instalment to be paid by 31-08-2014, the second instalment to be paid by 30-09-2014 and the third and final instalment to be paid by 31-10-2014.
- The Parties agree to the above in full and final settlement of all matters arising from and/or in connection with the dispute between the Appellant Landlord and the Respondent third parties in respect of the Dwelling at 18 Christendom Mews, Ferrybank, Waterford.

Reason: To give effect to the terms of the settlement as agreed between the parties. The parties are fully aware that the only aspects of the agreement reached between the parties that are enforceable under the Residential Tenancies Act 2004 will form part of the legally binding order by the Board.

8. Determination:

Tribunal Reference TR0514-000647

In the matter of Ben Galway (Landlord) and Brian Grant, Kevin Kehoe, Heather Jennings, Paul Walsh, Francis Power, Glenn Gall, Brendan Kiersey, Anthony Power, Vincent Howard, Amy Power, Gerard Power (Third Party) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Appellant Landlord shall serve a notice of termination on his tenants in respect of the tenancy of the dwelling at 18 Christendom Mews, Ferrybank, Waterford on grounds of anti social behaviour within 5 days of the Tribunal hearing (8 July 2014) and in compliance with the provisions of the Residential Tenancies Act 2004.
2. The Appellant Landlord shall pay damages in the sum of €1,500 to the residents of Christendom in three instalments of €500. The first instalment shall be paid by 31 August 2014, the second instalment by 30 September 2014 and the third and final instalment by 31 October 2014 in full and final settlement of all matters arising from and/or in connection with the dispute between the Appellant Landlord and the Respondent third parties

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 22/08/2014.



Signed:

Gareth Robinson Chairperson

For and on behalf of the Tribunal.