

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0514-000667 / Case Ref No: 0314-11130

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| Appellant Tenant: | Mary McKenna |
| Respondent Landlords: | Charles Cummins, Sandra Heffernan |
| Address of Rented Dwelling: | Apartment 40, Millbank Square, Sallins , County Kildare |
| Tribunal: | Patricia Sheehy Skeffington (Chairperson) John Tiernan, Thomas Reilly |
| Venue: | Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2 |
| Date & time of Hearing: | 22 July 2014 at 10:30 |
| Attendees: | For the Appellant: Mary McKenna (Appellant Tenant) For the Respondent: Charles Cummins (First Named Respondent Landlord) Sandra Heffernan (Second Named Respondent Landlord) Rebecca Hearst, Michael O'Shea and Co Solicitors (Respondent Landlords' solicitor) |
| In Attendance: | Gwen Malone Stenographers |

1. Background:

On 23 March 2014 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 23 April 2014 and at which the tenant was not present for reasons explained at the Tribunal. The Adjudicator made a Determination and the tenant applied to appeal against this on 29 May 2014. The application for the appeal was approved by the Board on 6 June 2014.

The PRTB constituted a Tenancy Tribunal and appointed Patricia Sheehy Skeffington, John Tiernan and Thomas Reilly 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 22 July 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 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 Tenant in this case) would be invited to present her case first; that there would be an opportunity for cross-examination by the Respondent Landlords; that the Respondent Landlords would then be invited to present their case, and that there would be an opportunity for cross-examination by the Appellant Tenant. The Chairperson explained that following this, both parties would be given an opportunity to make a final submission. She clarified that albeit the Tribunal could have regard to the Adjudicator's report, it was not bound by it and that the Tribunal was a fresh re-hearing of the matter.

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:

During the evidence in the case, it seemed that an agreement could be reached and the Tribunal facilitated this agreement.

The parties set out the terms of their agreement orally to the Tribunal and then clarified certain of the terms of the agreement reached between the parties. The Tribunal then confirmed with each of the parties that they were in full agreement with the terms.

6. Matters Agreed Between the Parties

The parties resolved their dispute in full.

7. Findings and Reasons:

Finding One:

The Tribunal adopts as its determination the agreement reached by the parties to resolve the dispute.

Reasons:

1. The parties came to an agreement of all matters in issue between them. They set out the terms to the Tribunal and clarified a number of the details in the agreement. The terms were read back to the parties and they confirmed to the Tribunal that they were in agreement with each element of the proposed Determination Order.

8. Determination:

Tribunal Reference TR0514-000667

In the matter of Mary McKenna (Tenant) and Charles Cummins and Sandra Heffernan (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Appellant Tenant shall vacate the dwelling at Apartment 40, Millbank Square, Sallins, County Kildare on or before 2 September 2014, being six weeks' from the date of the Tribunal hearing.
2. There is no claim in respect of any rent arrears accruing.
3. The Respondent Landlords acknowledges that certain issues in respect of the standard and maintenance of the dwelling arose on the part of the Respondent Landlords during the course of the tenancy.
4. The Respondent Landlords shall refund the entire of the security deposit of €800 to the Appellant Tenant, 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 23/07/2014.

Signed:



Patricia Sheehy Skeffington Chairperson

For and on behalf of the Tribunal.