**Private Residential Tenancies Board**

## RESIDENTIAL TENANCIES ACT 2004

**Report of Tribunal Reference No: TR0515-001157 / Case Ref No: 0115-16026**

**Appellant Landlord:** Declan Lee

**Respondent Tenant:** Jacinta McCaul

**Address of Rented Dwelling:** Ballyfruit, Headford , Galway,

**Tribunal:** John FitzGerald (Chairperson)

Jack Nicholas, Helen-Claire O'Hanlon

**Venue:** Executive Lounge, Hotel Meyrick, Eyre Square, Galway

**Date & time of Hearing:** 02 September 2015 at 10:30

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| **Attendees:** | Declan Lee - Landlord  Lisa Copley - Landlord  Catherine Murphy - Solicitor  Gerry Mullin- Agent  Jacinta McCaul – Tenant |
| **In Attendance:** | Gwen Malone Stenographers. |

**1. Background:**

On 05 January 2015 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 Adjudication which took place on 16/03/2015. The Adjudicator determined that

The notice of termination, dated the 15th December 2014 and served by the Respondent Landlord on the Applicant Tenant in respect of the tenancy of the dwelling at Ballyfruit, Headford, Co. Galway is invalid.

Subsequently the following appeal was received from the landlord on 06 May 2015:

The grounds of the appeal:

Breach of fixed term lease and this was approved by the Board at their meeting on 22 May 2015.

The PRTB constituted a Tenancy Tribunal and appointed Jack Nicholas, Helen-Claire O'Hanlon and John FitzGerald 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”).

On 10 July 2015 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 02 September 2015 the Tribunal convened a hearing at Executive Lounge, Hotel Meyrick, Eyre Square, Galway.

**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 or affirmation 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 of up to €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].

The Parties were then sworn in.

The Chairperson informed the Parties that should they see merit in conferring with each other with a view to reaching an agreement the Tribunal would facilitate such a request and recess for a period to allow negotiations to take place.

The Parties made it clear to the Tribunal that they were willing to negotiate towards a settlement and a recess was facilitated by the Tribunal. Following this recess the Parties indicated to the Tribunal that an agreement had been reached between them, committed to writing and signed by both Parties.

**5. Submissions of the Parties:**

N/a

**6. Matters Agreed Between the Parties**

The agreement reached between the Parties is annexed to the Determination Order.

**7. Findings and Reasons:**

N/A

**8. Determination:**

**Tribunal Reference TR0515-001157**

**In the matter of Declan Lee (Landlord) and Jacinta McCaul (Tenant) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:**

Declan Lee, Appellant Landlord and Jacinta McCaul, Respondent Tenant, the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004 determines that:

The Tribunal makes an order as per the Terms and Conditions of the said agreement, a copy of which is annexed hereto and forms part of the Order, in respect of the tenancy of the dwelling at Ballyfruit, Headord, Co Galway.

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| **Signed:** | \\v-1-hq-fs-01\HOME\Common\Signatures\TribunalMembers\John FitzGerald.png |

**John FitzGerald Chairperson**

For and on behalf of the Tribunal.