

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0614-000684 / Case Ref No: 0314-11205

Appellant Landlord:	William Williams
Respondent Tenant:	Deirdre Curran
Address of Rented Dwelling:	9 The Sidings, Ramsgate Village, Gorey , Wexford
Tribunal:	Catriona Walsh (Chairperson) Aidan Brennan, Thomas Reilly
Venue:	Conference Room, Department of the Environment, Community & Local Government, Newtown Road, Wexford
Date & time of Hearing:	27 August 2014 at 2:30
Attendees:	William Williams - Appellant Landlord Deirdre Curran - Respondent Tenant Sharon Williams - Daughter of the Appellant Landlord Mary Morris Curran - Mother of the Respondent Tenant
In Attendance:	Gwen Malone Stenographers

1. Background:

On 26/03/2014 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 25/04/2014. The Adjudicator determined that the Notice of Termination served on the Tenant by the Landlord was invalid and the Landlord shall pay the sum of €4,000.00 to the Tenant being €4,128.00 for breach of Landlord obligations deducting the rent arrears of €128.00 in respect of the tenancy of the dwelling at 9 The Sidings, Ramsgate Village, Gorey, Co. Wexford;

Subsequently the following appeals were received:

Landlord : received on 04/06/2014. The grounds of the appeal: Standard and maintenance of dwelling ; approved by the Board on 06/06/2014.

The PRTB constituted a Tenancy Tribunal and appointed Catriona Walsh, Aidan Brennan, Thomas Reilly as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Catriona Walsh to be the chairperson of the Tribunal ("the Chairperson").

On the 29th day of July 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 27/08/2014 the Tribunal convened a hearing at Conference Room, Department of the Environment, Community & Local Government, Newtown Road, Wexford.

2. Documents Submitted Prior to the Hearing Included:

PRTB File

3. Documents Submitted at the Hearing Included:

1. Letter to Billy Williams from Wexford County Council dated the 15th April 2013.
2. Receipt from David Donegan Plastering Contractor to Billy Williams dated the 25th August 2014
3. Invoice from Michael (illegible) to Billy Williams dated the 22nd April 2014
4. Invoice from David Jackson to Billy Williams dated the 26th August 2014

4. Procedure:

The Tribunal hearing was convened to commence at 2.30pm. The Parties were present at the appointed time.

The Chairperson asked the parties present to identify themselves and to identify in what capacity they were attending the Tribunal. She 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".

She explained the procedure that would be followed: that the Tribunal was a formal procedure but that it would be conducted in a manner that would be as informal as possible. She indicated that the Parties who had appealed (the Appellants) would be invited to present their case first. There would be an opportunity for cross-examination by the Respondent. The Respondent would then be invited to present his case and the Appellants could cross-examine the Respondent if they so wished. She indicated that members of the Tribunal might also ask questions of both parties from time to time.

The Chairperson explained that following this, the Parties would be given an opportunity to make final submissions.

The Chairperson explained to the parties that in the event agreement is reached between them, the terms of any such agreement can be incorporated into a determination of the Tribunal and thus become enforceable through the courts.

The Chairperson stressed that all evidence would be taken on oath or affirmation and be recorded by the stenographer present. She advised the parties that knowingly providing false or misleading information or statements to the Tribunal was an offence punishable by a fine of €4,000.00 or 6 months imprisonment or both.

She 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 enforced by either of the parties or in some cases by the PRTB at its discretion. She also advised the parties that the Tribunal process was the final step in the dispute resolution process unless appealed to the High Court on a point of law only, pursuant to Section 123(3) of the Private Residential Tenancies Act 2004 as amended.

She asked the parties if they had any queries about the procedure and there were none.

After some discussion, it was agreed that the Parties attending with the Appellant Landlord and the Respondent Tenant would discuss the issues so see if any agreement

could be reached. The Tribunal facilitated that but no agreement could be reached on the substantive issue and the matter thereafter proceeded.

The parties were then sworn in.

5. Submissions of the Parties:

The Appellant Landlord

The Appellant Landlord (through his daughter), when asked by the Tribunal indicated that the only issue under Appeal was the extent of the award of damages against him. He indicated that he was not pursuing his Appeal in respect of the Notice of Termination. There was still an issue about outstanding rent which the Adjudicator had found to be €128.00 and he was willing to accept that this was the amount outstanding. He had no documentation with him to prove otherwise.

The Appellant Landlord said that the problems had commenced prior to December 2013. He was unclear of the timeline and was asked several times to clarify when the problems commenced at the dwelling and he settled on prior to December 2013. The Respondent Tenant had contacted him about blockages in the sewerage pipes. When called he always attended the premises and he cleared the blockage from outside the house. There were also issues in the house of leaks from the bathroom culminating in a serious leak in February 2014 in the kitchen. There was also a leak in the sitting room. He called in a plumber who opened up the ceiling and carried out work to the sewer pipe travelling above the kitchen ceiling. Photographs were on the PRTB file of the hole opened in the kitchen ceiling (taken by the Respondent Tenant) and the Appellant Landlord agreed that they were accurate. The kitchen ceiling remained exposed until June/July 2014 when it was closed. The Appellant Landlord said that when called he always dealt with the problem but accepted that the problems continued. It was put to him by the Tribunal that the photographs showed and an appalling vista of an opened kitchen ceiling, debris on existing furniture and the floor which suggested work being carried out in a haphazard and unclean manner. The Appellant Landlord also submitted documentation as set out above (the submission of such documentation acceptable to the Respondent Tenant). In that the Appellant Landlord produced a letter from Wexford County Council to him dated the 15th April 2013 requesting works to be carried out to the dwelling including the repair of leaks in the shower/bath upstairs and the repair of leak in kitchen under the Housing (Standards for Rented Houses) Regulations 2008 and 2009 which suggested the issues arose a lot earlier than the evidence he gave. The Appellant Landlord produced the documents as set out above at the hearing and they were admitted by the Tribunal with the consent of the Respondent Tenant.

Respondent Tenant's evidence

The Respondent Tenant indicated that there were problems with the house from the outset. She gave evidence of leaks and blockages from 2010. She did accept that whenever she called the Appellant Landlord that he did always respond, in that he either came himself and released the blockage outside or sent handymen out to attend at the house. There was a small hole in the kitchen ceiling for about a year before February 2014. She indicated that the work carried out was inadequate and piecemeal and never sorted out the underlining problems with the house. She said that she had put up with the ensuite shower leaking through to the sitting room ceiling, water leaking to the kitchen ceiling, sewers blocking up culminating in February 2014 when the bathwater came

through the kitchen ceiling. At that point the Respondent Landlord called someone in to fix the problem. He never prepared the area for the work he was to carry out and left all furniture in situ and broke open a large hole in the kitchen. The plaster and debris fell onto the floor and her furniture as the photographs showed and then he opened the sewerage pipe in the kitchen. At that point the Respondent Tenant made her application for dispute to the PRTB. She further indicated that the hole remained in her kitchen until it was fixed in August 2014. The issue for the Respondent Tenant is she had to deal with workmen coming in and out of her house. She had to clean up her kitchen from the mess created in February 2014. Because of leaks from the shower she had stopped using the shower for a long time. In February 2014 there were leaks from the bath. She had complained to Wexford County Council who had visited the house. She had to put buckets out to deal with leaks. All in all her quality of life in the dwelling and that of her family had been adversely affected. Whilst she did accept that the Appellant Landlord did respond whenever she called he sent what she perceived to be handymen to the house and the problems were never fully sorted.

The Respondent Tenant accepted that there were arrears of rent due in the sum of €128.00.

6. Matters Agreed Between the Parties

1. The Lease was dated the 28th September 2009 and was for 12 months and continued subsequent.
2. The rent was €162.00 per week.
3. The deposit paid was €650.00.

7. Findings and Reasons:

Having considered all of the documentation before it, and having considered the evidence given by the Appellant Landlord and the Respondent Tenant, the Tribunal's findings and reasons therefor are set out hereunder;

Finding 1;

The Appellant Landlord is in breach of his obligations under Section 12(1)(a) and (b) of the Residential Tenancies Act 2004 as amended in that the Appellant Landlord has not allowed the Respondent Tenant to enjoy peaceful and exclusive occupation of the dwelling and has failed to carry out repairs as necessary to ensure that the premises complies with standards for houses as prescribed under the Housing (Miscellaneous Provisions) Act 1992.

Reasons

It is accepted that when the Respondent Tenant raised issues with the Appellant Landlord that he did respond to those complaints. However, the measure of that response was not sufficient to deal with the issues raised. The issues persisted culminating with a serious leaking issue in February 2014. The Appellant Landlord dealt with the various issues in a piecemeal and stopgap fashion when the issues raised required a complete review of the premises. There would appear to the Tribunal to be issues as to overall defects which

would warrant such a review. Because of that and taking into account the Appellant Landlord's attempts to remedy matters albeit in an unsatisfactory way, the Tribunal awards the sum of €3,000.00 to the Respondent Tenant for the continuous nature of the complaints, the inadequacy of the response from the Appellant Landlord and the obvious detrimental impact this has had on the Respondent Tenant and her family. It is accepted that there are rent arrears of €128.00 and this should be deducted from the overall award.

8. Determination:

Tribunal Reference TR0614-000684

In the matter of William Williams (Landlord) and Deirdre Curran (Tenant) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

The Respondent Landlord shall pay the sum of €2,872.00 to the Respondent Tenant within 56 days of the issue of the within Order. This sum represents €3,000.00 for breach of the Appellant Landlord's obligations under Section 12 (1) (a) and (b) of the Residential Tenancies Act 2004 as amended deducting the sum of €128.00 due to the Appellant Landlord by the Respondent Tenant for rent arrears in respect of the tenancy at 9, the Sidings, Ramsgate Village, Gorey, County Wexford.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 23/09/2014.



Signed:

Catriona Walsh Chairperson

For and on behalf of the Tribunal.