

**0872927862 Private Residential Tenancies Board**

**RESIDENTIAL TENANCIES ACT 2004**

**Report of Tribunal Reference No: TR0814-000786 / Case Ref No: 0314-10897**

<b>Appellant Tenant:</b>	Mark O'Donoghue, Serena O'Donoghue
<b>Respondent Landlord:</b>	Michael O'Neill
<b>Address of Rented Dwelling:</b>	Hillview, Saint Patrick's Road , Cork
<b>Tribunal:</b>	Aidan Brennan (Chairperson) Gene Feighery, Thomas Reilly
<b>Venue:</b>	Committee Room 1, Cork City Council, City Hall, Anglesea Street, Cork
<b>Date &amp; time of Hearing:</b>	02 October 2014 at 2:30
<b>Attendees:</b>	Kim Walley Solicitor - Fachtna O Driscoll Solicitors (for the Landlord) Mark O'Donoghue Michael O'Neill
<b>In Attendance:</b>	Gwen Malone Stenographers

**1. Background:**

On 12/03/2014 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 20/06/2014. The Adjudicator determined that:

1. The Applicant Landlord's application regarding arrears of rent is upheld in part.
2. The Respondent Tenant shall pay the total sum of €1,719.40 to the Applicant Landlord within 28 days of the issue of the Determination Order. This sum represents rent arrears of €2,636.70, less €917.30 being the portion of the security deposit justifiably retained by the Landlord.

Subsequently an appeal was received from the Tenant on the 18/08/2014 on the grounds that he had provided evidence showing that he had paid rent outstanding; that the Landlord had no evidence to show rental payments (no rent book); and that the retained portion of deposit was unfairly withheld for alleged damage to wall and refuse payments. This appeal was approved by the Board of the PRTB on 22/08/2014.

The PRTB constituted a Tenancy Tribunal and appointed Aidan Brennan, Gene Feighery and Thomas Reilly as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Aidan Brennan 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 02/10/2014 the Tribunal convened a hearing at Committee Room 1, Cork City Council, City Hall, Anglesea Street, Cork.

**2. Documents Submitted Prior to the Hearing Included:**

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 and understood 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 his case first; that there would be an opportunity for cross-examination by the Respondent; that the Respondent would then be invited to present his case, and that there would be an opportunity for cross-examination by the Appellant. The Chairperson also said that members of the Tribunal might ask questions of both parties from time to time.

The Chairperson explained that following this, both parties would be given an opportunity to make a final submission.

The Chairperson said 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 by a fine of up to €4,000 or up to 6 months imprisonment or both. (Parties giving evidence were sworn in.)

The Chairperson 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:**

During the proceedings the parties expressed a willingness to negotiate and a recess was facilitated.

**6. Matters Agreed Between the Parties**

The tenancy commenced on 01/08/2010 and ended on 07/07/2013, the rent was €1200 per month and the tenant has vacated the dwelling.

Serena O'Donoghue was not party to any lease in respect of the dwelling

## **7. Findings and Reasons:**

Having considered the initial submission of the parties, including the documentary evidence herein, the Tribunal's findings and reasons therefor are set out hereunder:

The Tribunal determines that in accordance with the agreement reached and entered into between the Parties herein, the Appellant Tenant shall pay to the Respondent Landlord the total amount of €1,719.40, if not sooner paid, within 7 days of the date of the Order.

This agreement is in full and final settlement of all matters arising from and/or in connection with the dispute between the Appellant Tenant, Mark O'Donoghue and the Respondent Landlord, Michael O'Neill in respect of the Dwelling at: Hillview St. Patricks Road, Cork.

Reason: To give effect to the terms of the settlement as agreed between the parties.

## **8. Determination:**

**Tribunal Reference TR0814-000786**

**In the matter of Mark O'Donoghue (Tenant) and Michael O'Neill (Landlord) 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 this Order, in respect of the tenancy of the dwelling at: Hillview, St Patricks Road, Cork.

The Appellant Tenant shall pay to the Respondent Landlord the total amount of €1,719.40, on or before the 9<sup>th</sup> day of October 2014 in full and final settlement of all matters between them.

This agreement is in full and final settlement of all matters arising from and/or in connection with the dispute between the Appellant Tenant, Mark O'Donoghue and the Respondent Landlord, Michael O'Neill in respect of the Dwelling at: Hillview St. Patricks Road, Cork.

**Signed:**



---

**Aidan Brennan Chairperson**

For and on behalf of the Tribunal.