**Private Residential Tenancies Board**

## RESIDENTIAL TENANCIES ACT 2004

**Report of Tribunal Reference No: TR0815-001332 / Case Ref No: 0515-18636**

**Appellant Tenant:** Italo Padovani Valero

**Respondent Landlord:** Brian Lynch

**Address of Rented Dwelling:** Apt 1, 65, Thomas Street , Dublin 8, D08V0R1

**Tribunal:** John FitzGerald (Chairperson)

John Keane, Rosemary Healy Rae

**Venue:** Board Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2.

**Date & time of Hearing:** 12 October 2015 at 10:30

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| **Attendees:** | Brian Lynch (Respondent Landlord)  Italo Padovani Valero (Appellant Tenant)  Guto Mariano Correia (Tenant) |
| **In Attendance:** | Gwen Malone Stenographers |

**1. Background:**

On 22 May 2015 the Tenant made an application to the Private Residential Tenancies Board (“the PRTB”) pursuant to Section 76 of the Act. The matter was referred to an Adjudication which took place on 30 July 2015. The Adjudicator determined that:

1. The Notice of Termination which was effected by telephone conversation by the Respondent landlord in or around the 21st May 2015 in respect of the tenancy of the dwelling at Apartment 1, 65 Thomas Street, Dublin 8, is invalid.

2. The Applicant tenants shall pay the total sum of €850.00 to the Respondent landlord within 14 days of the date of issue of this Order, being the appropriate contribution to their electricity bills from the 15th November 2014 - 15th July 2015 and for breach of Section 16 of the Residential Tenancies Act 2004, having taken into account and deducted €500.00 in damages against the Respondent landlord for the consequences of attempting to unlawfully terminate the Applicant tenants’ tenancy and for being in breach of Section 12 of the Residential Tenancies Act 2004.

3. The Applicant tenants shall continue to pay rent at the monthly rate of €1400.00, or proportionate part thereof at the rate of €46.03 per day, unless lawfully varied, and any other charges as set out in the terms of the tenancy agreement, for each month or part thereof, until such time as they vacate the above dwelling.

An appeal against the Adjudicator’s Determination was received from the Landlord on 27 August 2015 and this appeal was approved by the Board of the PRTB at their meeting on 11 September 2015.

The PRTB constituted a Tenancy Tribunal and appointed John FitzGerald, John Keane and Rosemary Healy Rae 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”).

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 12 October 2015 the Tribunal convened a hearing at Board 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:**

Two additional electricity statements.

**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 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 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 by a fine 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.

Both Parties made submissions to the Tribunal in the course of which it became clear that both Parties were willing to consider compromising the proceedings and the Tribunal adjourned for a short period to facilitate discussions between the parties.

When the Tribunal reconvened the parties indicated that a compromised agreement had been reached between them. This agreement was reduced into writing and signed between the parties. The parties were informed that this compromised agreement would remain confidential and be adopted by the Tribunal and issued to the Board of the PRTB following which the parties would receive the Agreement in the form of a legally binding order which is enforceable in the courts.

**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 TR0815-001332**

**In the matter of Italo Padovani Valero (Tenant) and Brian Lynch (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 confidential agreement, a copy of which is annexed hereto and forms part of the Order, in respect of the tenancy of the dwelling at Apt 1, 65 Thomas St, Dublin 8.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 15 October 2015.

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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.