

Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0321-004823 / Case Ref No: 1220-66686

Appellant Landlord: Therese O'Brien, Johnathon O'Brien

Respondent Tenant: Kate Mahon, Gary Jennings

Address of Rented Dwelling: The River Cottage, Ledville Castle, Ballycorrus Road, Kilternan, Dublin 18, D18CD85

Tribunal: Claire Millrine (Chairperson)
Healy Hynes, Peter Shanley

Venue: Telephone conference tribunal - Ormond Meeting Rooms, Dublin

Date & time of Hearing: 07 July 2021 at 2:30

Attendees: For the Appellant Landlord:
Therese O'Brien, Appellant Landlord

For the Respondent Tenants:
Brian O'Brien, Solicitor, Tribunal Representative
for the Tenants

In Attendance: RTB appointed stenographer

1. Background:

On 04/12/2020 the Tenant made an application to the Residential Tenancies Board ("the RTB") pursuant to Section 78 of the Act. The matter was referred to an Adjudication which took place on 23/12/2020. The Adjudicator determined that

1. The Notice of Termination with a date of service of 04 December 2020 served by the Respondent Landlords on the Applicant Tenants, in respect of the tenancy of the dwelling at The River Cottage, Ledville Castle, Ballycorrus Road, Kilternan, Co. Dublin, D18 CD85, is invalid.

2. The Respondent Landlords shall pay the total sum of €4,000.00 to the Applicant Tenants within 28 days of the date of issue of the Determination Order, being damages of €4,000.00 for the consequences of unlawfully terminating the Applicant Tenants' tenancy of the above dwelling.

Subsequently the following appeal was received:

The RTB constituted a Tenancy Tribunal and appointed Claire Millrine, Peter Shanley and Healy Hynes as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Claire Millrine to be the Chairperson of the Tribunal ("the Chairperson").

On 15/06/2021 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 07/07/2021 the Tribunal convened a Telephone conference tribunal in the Ormond Rooms, Dublin.

2. Documents Submitted Prior to the Hearing Included:

RTB File.

3. Documents Submitted at the Hearing Included:

None.

4. Procedure:

The Chairperson stated that for the record this was a telephone Tribunal due to the government restrictions in place as a result of the COVID-19 pandemic. The Chairperson asked the parties present on the teleconference facility 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 RTB in relation to the case and that they had received the RTB 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 made the referral (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 affirmation and would 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 up to €4,000 or imprisonment for up to six months 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. The Chairperson asked were there any queries on the procedures, there were no queries.

The parties indicated that discussions had taken place prior to the commencement of the hearing and advised that an agreement had been reached between the Parties resolving all matters arising in respect of the dispute before the Tribunal. The terms of the agreement reached were confirmed by the Tribunal with each Party, the Chairperson confirmed the terms of the agreement to be the subject of the Determination Order which would issue from the Board. Both Parties confirmed that the agreement was in full and final settlement of the issues arising in the dispute before the Tribunal.

5. Submissions of the Parties:

None.

6. Matters Agreed Between the Parties

Agreement reached between the parties.

7. Findings and Reasons:

Agreement reached between the Parties.

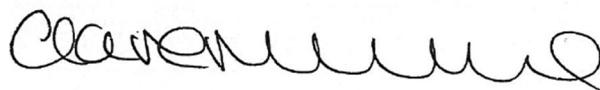
8. Determination:

In the matter of Therese O'Brien & Johnathon O'Brien (Appellant Landlords) and Kate Mahon & Gary Jennings (Respondent Tenants) the Tribunal in accordance with Section 108(1) of the Residential Tenancies Act 2004 determine that:

1. The Board make an Order as per the following terms of agreement between the Parties, in respect of the tenancy of the dwelling at The River Cottage, Ledville Castle, Ballycorus Road, Kilternan, Co. Dublin, D18CD85, Ireland.
2. The Notice of Termination with a date of service of 04 December 2020 served by the Appellant Landlords on the Respondent Tenants, in respect of the tenancy of the dwelling at The River Cottage, Ledville Castle, Ballycorus Road, Kilternan, Co. Dublin, D18 CD85, is invalid.
3. The Appellant Landlords shall pay the total sum of €4,000.00 to the Respondent Tenants within 28 days of the date of issue of the Determination Order, being damages of €4,000.00 for the consequences of unlawfully terminating the Respondent Tenants' tenancy of the above dwelling.
4. The Respondent Tenants shall pay the sum of €2,500.00 to the Appellant Landlords within 21 days of the date of this Determination Order, being rent arrears due and owing to the Appellant Landlords.
5. The sum of €2,500.00 paid by the Appellant Tenants shall be set off against the sum of €4,000.00 damages to be paid by the Appellant Landlords to the Respondent Tenants, to leave a balance of €1,500.00 due and owing by the Appellant Landlords within 28 days of the date of issue of the Determination Order, in full and final settlement of all issues between the parties in relation to this dispute.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 26/07/2021.

Signed:



Claire Millrine Chairperson

For and on behalf of the Tribunal