Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0818-003151 / Case Ref No: 0418-43031

Appellant Landlord:	Brendan Mc Skeane
Respondent Tenants:	Bridget Whitely, Badre Lemrabet
Address of Rented Dwelling:	57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth, A91T4A4
Tribunal:	Dairine Mac Fadden (Chairperson) Mervyn Hickey, Elizabeth Maguire
Venue:	Tribunal Room, RTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	14 December 2018 at 2:30 pm
Attendees:	For the Appellant Landlord: Edel Traynor, Barry Healy & Co Solicitors, Appellant Landlord's Representative. Brendan Mc Skeane, Appellant Landlord. Conor Mc Skeane, Appellant Landlord's Witness. For the Respondent Tenants: Bridget Whitley, Respondent Tenant. Badre Lemrabet, Respondent Tenant.
In Attendance:	Stenographer

1. Background:

On the 19th April 2018 the Tenant made an application to the Residential Tenancies Board ("the RTB") pursuant to Section 76 of the Act. The matter was referred to an Adjudication which took place on 26th June 2018. The Adjudicator determined that:

1. The Notice of Termination served by the Landlord on the 12th February 2018 on the Tenant in respect of the Tenancy of the Dwelling at 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth is valid.

2. The Notice of Termination served by the Landlord on the 25th March 2018 on the Tenant in respect of the Tenancy of the above Dwelling is invalid.

3. The Respondent Landlord shall pay the total sum of €9,000.00 to the Applicant Tenants in the following manner:

i. €7,000.00 to Bridget Whitely and

ii. €2,000.00 to Badre Lemrabet,

within 28 days of the date of issue of the Order, being damages for :

a. breach of landlord obligations under s. 12(1)(a) of the Residential Tenancies Act 2004 by unlawfully interfering with the Tenants' right to peaceful and exclusive occupation of the dwelling at 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth and

b. the consequences of unlawfully terminating the Tenants' tenancy of the above dwelling and

4. The Tenants shall pay the total sum of €231.01 to the Landlord, within 28 days of the date of issue of the Order, this sum represents rent arrears of €951.01 having deducted the justifiably retained security deposit of €720.00 in respect of the tenancy of the above dwelling;

Subsequently an appeal was received from the Landlord.

The RTB constituted a Tenancy Tribunal and appointed Dairine Mac Fadden, Mervyn Hickey, Elizabeth Maguire as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Dairine Mac Fadden 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 14 December 2018 the Tribunal convened a hearing at Tribunal Room, RTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2.

2. Documents Submitted Prior to the Hearing Included:

1. RTB 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.

She 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 first named Respondent Tenant said that she had not received Case File 1. The Chairperson went through the entire Case File on a document by document basis and the first named Respondent Tenant confirmed that she had received each individual document save for the warning letter in respect of rent arrears.

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 Respondents; that the Respondents would then be invited to present their case, and that there would be an opportunity for cross-examination by the Appellant. She said that members of the Tribunal might ask questions of both Parties from time to time.

She explained that following this, both Parties would be given an opportunity to make a final submission.

She stressed that all evidence would be taken on oath or affirmation and be recorded by the recording technician 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 up to 6 months imprisonment or both. She informed the Parties that the hearing was a public hearing and that members of the public could attend if they wished.

She said that following the hearing, the Board would make a Determination Order which would be issued to the Parties. She explained that the hearing before the Tribunal was a final hearing on all matters of fact and that the findings of the Tribunal could be appealed to the High Court on a point of law only.

She said that the Tribunal would be willing to consider a short adjournment for the purpose of allowing the Parties to enter negotiations in an effort to try to reach a consent settlement of their dispute should the parties so wish.

The Parties intending to give evidence were affirmed/sworn in.

5. Submissions of the Parties:

Parties submissions from the evidence given at the hearing and written submissions prior to the hearing:

In relation to the rent, it was agreed that there were arrears but there was no agreement as to the amount.

It was agreed that the family member had not moved in and that an offer of a new tenancy had not been made and new tenants had moved in within 6 months of the termination of the tenancy. The Appellant Landlord stated that the family member could not move in because he was unable to get a transfer from his job in Dublin.

It was agreed that: in the lead up to Easter 2018, the first-named Respondent Tenant had agreed with the Appellant Landlord that repair work to fix a leak which she had brought to his attention could be done to the dwelling while she was away visiting family for a week; the first-named Respondent Tenant had left in or around the 29th March 2018; on her return in or around the 6th April 2018 the dwelling was not habitable as the toilet had been pulled out and water, gas and electricity supplies to the dwelling had been disconnected; the first-named Respondent Tenant had moved back into the dwelling and reconnected the services, with the Appellant Landlord submitting that it had been for 2 nights (referring to the text message at page 24 of Tribunal Case File 1) and the first-named Respondent Tenant stating that it had been for only one night; a further period had been agreed for the completion of the work; on the 11th April 2018 the first-named Respondent Tenant was informed that the dwelling was still uninhabitable and posed a health hazard, that her tenancy was up and the locks were changed on that date by the contractor engaged by the Appellant Landlord.

There was conflicting evidence between the parties as to the service of the warning notice for the rent arrears, Housing Assistance Payment ("HAP"), the extent of work required and actually done, the extent and value of tenant items remaining in the dwelling on the date the locks were changed and as to whether both Tenants or only the first-named

Respondent Tenant were in occupation of the dwelling at the time the locks were changed. The position of the Appellant Landlord was that the termination of the tenancy was lawful with the Respondent Tenants contending that it was unlawful and in effect an illegal eviction.

In relation to rent arrears Ms Traynor on behalf of the Appellant Landlord accepted that no rent review notice had been served but said that the new rent had been accepted by the Tenants; that they had accepted the going market rate was in the region of €900 - €1200 and that the landlord had agreed to accept €800 which was less than the market rent in view of the good relationship between the Parties. The Appellant Landlord said that he had personally served the warning notice for the rent arrears on the first-named Respondent Tenant who denied that she had received the warning notice.

In relation to HAP, the first-named Respondent Tenant said that when her husband the second-named Respondent Tenant lost his job in February 2018, she asked the Appellant Landlord to sign the HAP forms. In the application to the RTB, the second-named Respondent Tenant said that after raising the issue of HAP, they were served with a notice of termination. The Appellant Landlord denied this and referred to an exchange of text messages indicating that he (the Appellant Landlord) would have no problem accepting HAP and did not mind where the money came from HAP or anywhere (page 27 of Tribunal Case File 1).

In relation to the work required, there were two different dates given by the Appellant Landlord as to when he had become aware of the leak. In his written submissions at paragraph 7 of Tribunal Case File 2 it was stated that when the Appellant Landlord attended at the dwelling on the 25th March 2018 to serve the second Notice of Termination, it was brought to his attention that there was water running from the upstairs bathroom through the ceiling below and down through a light fixture. At the hearing the date given by the Appellant Landlord for this conversation was the 10th March 2018.

As regards the extent of the works required, the Appellant Landlord said that work had commenced on the 29th March 2018 but that due to a disagreement with the contractor the works had ceased; that the contractor had made him aware that it was a more complicated job than anticipated with further problems discovered. This contractor had switched off services to provide a safe working environment. On the first-named Respondent Tenant returning from holiday, the Appellant Landlord said she took up occupation despite the dwelling not being fit and had the services reconnected. He said a second contractor was then engaged by agreement with the first-named Respondent Tenant on the 11th April and that contractor made him aware of the extent of the problem with wires, fungus, mushroom growth, mould and rot and wiring requiring to be changed, difficulties finding the source of the leak due to there being 8/9 inches of insulation in the attic and the contractor advised him that all these works would take some weeks to complete, that the dwelling was not fit for habitation and was a health and safety hazard. The Appellant Landlord said that in the afternoon of that day, the 11th April, his son Conor Mc Skeane, informed the first-named Respondent Tenant that the Landlord would be unable to rent the dwelling in its then condition. The Appellant Landlord submitted an estimate of works required in the total sum of €953.40 including VAT and an invoice for carpets and mattresses.

The Appellant Landlord said that he was satisfied that the first-named Respondent Tenant appreciated the extent of works required and that her tenancy was up and that she would vacate and was in agreement; that his representative informed the first named Respondent tenant on the 11th April that the time period to complete the repairs was going to take

approximately two weeks by which time her tenancy would have expired on foot of the first Notice of Termination; that the contractor was instructed in the interests of health and safety and being concerned that he would be liable if the tenant suffered injuries in the dwelling, to secure the dwelling and that on foot of this instruction the locks were changed. Ms Traynor, on his behalf, referred to text messages submitted in evidence (A5, A6, A9, A10) which she said demonstrated the first-named Respondent Tenant's awareness of the situation.

In the written submissions (Tribunal Case File 2 at paragraph 5), the Appellant Landlord said he had called to the dwelling on the 26th February 2018 when the first-named Respondent Tenant and her sister were present; that enquiries had been made regarding when she would be vacating the dwelling on foot of the first Notice of Termination and that he was informed by the first-named Respondent Tenant that there would be no problem with alternative accommodation as she could live with her sister until she got sorted out.

The first-named Respondent Tenant said that she had not been aware of the extent of what was involved. She said that when she was leaving to go away for the week she was told that the dwelling would be ready when she came back; that she stayed in the dwelling for one night without telling the Appellant Landlord even though there was no toilet, water, gas or electricity; she alleged that there were no contractors involved; that the Appellant Landlord had done a lot of the work himself; that there was no evidence of any floorboards having to be lifted or of mould or fungus; that the only thing taken up was the carpet; that the Appellant Landlord had not submitted any photographs or bills to substantiate the extent of the work which he said was done and that the beds were still in the same position.

The Appellant Landlord said that he did not know what items of clothing were in the dwelling when the first contractor was working but said that he had told the first-named Respondent Tenant to make sure to remove anything of value in the dwelling as there would be different people in and out of the dwelling. At the time the second contractor was in the dwelling, he said that there were 3 to 4 plastic bags of clothes in each bedroom, 3 bags of clothes in the kitchen and no clothes hanging in any of the wardrobes. There was also a TV remaining. He did not know who put the clothes in the bags.

Mr Conor Mc Skeane, Witness for the Appellant Landlord said that he did not pack any clothes in bags and that the first named Respondent Tenant left the dwelling of her own accord.

In the written submissions (Tribunal Case File 1 at page 17) the Appellant Landlord said that the first-named Respondent Tenant had called on two occasions after termination to collect belongings and that she had not mentioned any lost items.

The first-named Respondent Tenant denied that the Appellant Landlord had told her to remove any items of value from the dwelling while the work was ongoing. She said that she had not bagged any items before she went on holiday.

She said that she was told by telephone on the 11th April 2018 that she could not go back to the dwelling; that she had lost irreplaceable photographs of her late mother and now had no photographs of her; a favourite baby blanket; special teddies that her son always slept with and that she could not get into the dwelling to get these; clothes belonging to her to the value of €109 and expensive clothes for her child which had come from her husband's sisters in Morocco; a Samsung mobile phone which she said was her only phone, her wedding ring; plates and saucers which had also come from Morocco and all her social

welfare documentation. She said that she had been unable to collect her belongings when requested to do so after the locks had changed as she was staying in a B&B.

The second-named Respondent Tenant said that he had lost €2,000 in cash which had been in the pocket of a jacket hanging in an upstairs wardrobe, a Samsung mobile phone which was a second phone he had, and a HP laptop which he had obtained in 2016.

Ms Traynor on behalf of the Appellant Landlord said that the Appellant Landlord wholeheartedly denied that he took any items which belonged to the Respondent Tenants; that the first time there had been any reference to this allegation was when the matter came before the RTB; that there had been no references to them in the text messages; that if items of such sentimental value had been taken, that the first named Respondent Tenant would have been "breaking down the doors" (to get these items back); that it was hard to believe that €2,000 cash would be left in the dwelling when the second-named Respondent Tenant's own evidence was that he had been coming and going to the dwelling; that the two tablets mentioned at the Adjudication as missing items had not featured in the evidence at hearing before the Tribunal.

On the question of who was in occupation of the dwelling at the time of the termination, the Appellant Landlord said that the first-named Respondent Tenant had told him on the 25th March 2018 when he attended to serve the second Notice of Termination that her husband the second-named Respondent Tenant had left her and was residing in England. He said that she told him that she had removed his belongings to the garage. He also referred to a conversation with the first-named Respondent Tenant on the 7th April 2018 when he said she told them again that the second-named Respondent Tenant had left her, was in the UK and was not coming back (Tribunal Case File 1 at page 16).

The first-named Respondent Tenant in her direct evidence said that she and her husband had separated in February 2018 and under cross-examination said that they were "trying to work things out". The second-named Respondent Tenant in his direct evidence said that he had moved to a friend's house but was coming backwards and forwards to the dwelling and that as of the date of the hearing before the Tribunal, he was still staying with that friend. He said that he had come back to the dwelling on the Wednesday of the first week when works were being done to see how matters were progressing only to find the toilet gone and services disconnected.

In her closing submissions, Ms Traynor on behalf of the Appellant Landlord submitted that the award of the Adjudicator should be overturned and no damages awarded.

In her closing submissions the first-named Respondent Tenant said that she had lost irreplaceable items and that she should be awarded damages for the unlawful termination.

6. Matters Agreed Between the Parties

1. The address of the dwelling is 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth;
2. The Tenancy commenced on the 8th April 2015;
3. A tenancy agreement was entered into on the 8th April 2017 for a term of 12 months;
4. A deposit of €720 was paid which is retained by the Appellant Landlord;

5. The rent at the commencement of the tenancy was €720 per month which was increased to €800 per month with effect from the 8th April 2017, payable on the 8th of each month;

6. The increased rent of €800 was paid up to and including July 2017; for August 2017 €720 was paid, €800 was paid in September 2017, €720 was paid in October 2017, €800 was paid in November 2017, €720 was paid in December 2017, €800 was paid in January 2018 and thereafter no rent was paid;

7. No rent review notice was served;

8. A Notice of Termination with a service date of 12th February 2018 was served on the grounds that the dwelling was required for occupation by a family member, giving a termination date of the 11th April 2018 ("first Notice of Termination");

9. A second Notice of Termination with a service date of the 25th March 2018 was served on the grounds of rent arrears, giving a termination date of the 22nd April 2018 ("second Notice of Termination");

10. The locks were changed in or around the 11th April 2018;

11. The Respondent Tenants are no longer in occupation of the dwelling.

7. Findings and Reasons:

Finding 1: The Tribunal finds that the first-named Respondent Tenant is in arrears of rent of €240.96 and that that there is a credit of €280 due to the second-named Respondent Tenant as of the conclusion of the Tribunal hearing.

Reasons:

It was agreed that the 29th March 2018 was the date the first-named Respondent Tenant went on holidays and work commenced in the dwelling and that from that date the dwelling was not fit for habitation due to the works commenced by the Appellant Landlord.

The Appellant Landlord accepted that no rent review notice had been served and consequently in accordance with section 22(2) of the Act, the rent increase did not take effect and the rent remained at €720 for the duration of the tenancy.

There was therefore an overpayment of €560 by the Respondent Tenants (€80 for each of the months of April - July 2017, September and November 2017 and January 2018). However, the Respondent Tenants accepted that no rent was paid by them since the payment in January 2018. The arrears from the 8th February 2018 up to the 29th March 2018 being the date the dwelling was not fit for habitation and having made allowance for the overpayment, amount to €680.96 (€720 in respect of the rent due on the 8th February and €520.96 in respect of 22 days rent at the daily rate of €23.68 from the 8th March 2018 to the 29th March 2018 less the overpayment of €560).

The Respondent Tenants accepted that there was a breakdown in their relationship in the leadup to the unlawful termination and that the second-named Respondent Tenant had left the dwelling but denied that he had moved out. The evidence of the Appellant Landlord was that he had been told by the first named Respondent Tenant in or around the time he was attending at the dwelling to arrange for the works to be carried out, that her husband had left her and was residing in England. The Appellant Landlord had referred to a text message from the first-named Respondent Tenant to the Appellant Landlord on the 22nd

March 2018 looking for keys to the shed “because my husband is coming to collect his stuff from it”. He also referred to a similar conversation on the 7th April. The first-named Respondent Tenant in her direct evidence to the Tribunal said they had separated in February 2018. The Tribunal notes also that at the date of the hearing before the Tribunal, the Respondent Tenants were still living apart. The Tribunal therefore finds that on the balance of probabilities, the second-named Respondent Tenant had moved out of the dwelling by the time the March rent payment was due on the 8th of the month. Therefore the Tribunal finds that liability for the rental payments should be apportioned as follows:

Rental overpayment of €560 and deposit of €720 to be apportioned equally between the two Respondent Tenants amounting to a credit of €640 each.

Rent arrears in respect of the payments due for the period from the 8h February to the 29th March 2018 being the date the dwelling was not fit for habitation (€1240.96) to be apportioned as to €880.96 payable by the first named-Respondent Tenant and as to €360 payable by the second-named Respondent Tenant (total arrears prior to allowance for the overpayment and the deposit).

Therefore, having regard to the rental overpayment and the deposit, the balance of rent payable by the first-named Respondent Tenant is €240.96 and there is a credit of €280 due by the Appellant Landlord to the second-named Respondent Tenant.

This Tribunal has no jurisdiction to deal with any issues regarding HAP.

Finding 2: The Respondent Tenants’ application seeking redress for unlawful termination of the tenancy of the dwelling at 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth is upheld.

Reasons:

The thrust of the Appellant Landlord’s case is that as the termination date (11th April 2018) specified in the first Notice of Termination had passed and the termination date (22nd April 2018) specified in the second Notice of Termination would have expired by the time the works were completed, this justified the changing of the locks on the 11th April 2018, in a situation where the works were ongoing and the dwelling was uninhabitable. It is not necessary for the Tribunal to determine whether either Notice of Termination was in fact valid, because irrespective of validity or invalidity, a landlord is not entitled to take back possession of a dwelling from a tenant in occupation simply because the termination date specified in a notice of termination has passed or is shortly to expire. Such a landlord would be required to make an application to the RTB to have the notice of termination served deemed valid and to obtain an order for possession of the dwelling from the RTB. Further, a landlord is not entitled to terminate a tenancy with immediate effect in a situation where repairs have to be carried out. Landlord’s repairs are the landlord’s responsibility pursuant to section 12 of the Act and while a tenant may be asked to move out temporarily pending the execution of such works where this is established to be absolutely necessary, the tenancy continues until terminated either by the tenant or by the landlord on the grounds set out in section 34 of the Act which includes a right to terminate where substantial renovation or refurbishment which is to be distinguished from repairs, is proposed.

The Tribunal finds as a matter of fact that at the time the Appellant Landlord instructed the contractor to change the locks on the 11th April 2018, the tenancy had not terminated; nor was this a situation of a deemed termination of tenancy pursuant to section 37 of the Act and this was not argued by the Appellant Landlord. Rather, the evidence establishes that

subsequent to the service of the Notices of Termination, the Appellant Landlord and the first-named Respondent Tenant had agreed that work to repair the leak would be carried out to the dwelling during a period of one week when she was on holidays; that on her return she found that the water, electricity and gas supplies to the dwelling had been disconnected and the toilet removed; that a further period was then agreed by the parties for the works to be completed; that a decision was then made by the Appellant Landlord on the 11th April 2018 in conjunction with the contractor that the dwelling was unfit and unsafe for habitation and the first-named Respondent Tenant was told that as her tenancy was up/would be up anyway by the time the works were completed, she would have to move out. She was told that the remainder of her clothes in the dwelling had been packaged into white plastic bags and left for collection inside the rear garage door (para 9 of Appellant Landlord's Submissions). The first-named Respondent Tenant had clearly not vacated the dwelling. The Appellant Landlord's actions that resulted in the locks being changed amounted to an unlawful termination of the tenancy irrespective of his view or even if it was to be established, that the dwelling was at that point unfit for habitation due to the ongoing works, or the fact that there were rent arrears or that the tenancy had ended or was soon to end.

Where there has been a breach of obligations under the Act, a Tribunal has discretion to award damages pursuant to section 115 to provide relief. In considering whether or not to award damages, the Tribunal must consider what losses the Respondent Tenants suffered as a result of the unlawful termination.

As regards the first-named Respondent Tenant, she has claimed the loss of personal items. Having regard to the text messages exchanged between the Parties and the evidence both at the hearing and in the written submissions, the Tribunal finds insufficient evidence to establish the loss of all of the items claimed by the first named Respondent Tenant. However, the Appellant Landlord's own evidence was that there were bags of clothing remaining in the dwelling on the date the locks were changed and the photographic evidence also shows items in a skip. The Tribunal is therefore satisfied that the first-named Respondent Tenant suffered a loss of personal items, the precise quantum of which loss is difficult for her to quantify precisely after the fact. The Tribunal is also satisfied that there was a loss to the first-named Respondent Tenant in respect of certain mislaid items or items which were destroyed that were of significant sentimental value to her. Again, it is difficult in light of the particular circumstances that arose, for the first-named Respondent Tenant to put a precise quantum of value on these items. The Tribunal has had regard to the nature of the losses sustained by reason of the Appellant Landlord's actions, the inconvenience and emotional upset caused thereby, of which the first-named Respondent Tenant gave evidence at the hearing. The Tribunal has further had regard to the manner of the termination and the fact that the first-named Respondent Tenant and her child were forced to take up accommodation in a B&B initially and thereafter in a refuge for a significant period of time.

A tenant can never have absolute security of tenure and where a landlord lawfully terminates a tenancy in accordance with the procedures set out in the Act, a tenant is required to move out irrespective of upset caused. The Tribunal has found that there were rent arrears at the time the tenancy was unlawfully terminated. There was evidence that the Respondent Tenants had been preparing to move out anyway (text message at page 27 of Tribunal Case File 1, "I'm saving the rent and deposit to move out"). It was also the case that no application to dispute the First Notice of Termination had been lodged with the

RTB within the required 28 days of service. Notwithstanding the foregoing matters however to which the Tribunal has had regard, they did not justify the manner of the termination by the Appellant Landlord which the Tribunal has found to be unlawful.

In all of these circumstances, the Tribunal considers that €5,000 is the appropriate sum to award in damages to the first named Respondent Tenant for the unlawful termination of her tenancy resulting in the loss of personal possessions and the upset and distress caused to her and her young child as a result of the manner of the termination. The Tribunal finds that the rent arrears as set out in finding 1 is to be deducted from the first-named Respondent Tenant's share of damages.

Having regard to the Tribunal's finding that the second named Respondent Tenant had in fact moved out before the events complained of and which led to the locks being changed, the Tribunal finds that he did not incur any loss as a result of the unlawful termination.

8. Determination:

In the matter of Brendan Mc Skeane (Appellant Landlord) and Bridget Whitely, Badre Lemrabet (Respondent Tenants) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Respondent Tenants' application seeking redress for unlawful termination of the tenancy of the dwelling at 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth is upheld.

2. The Appellant Landlord shall pay the total sum of €4,759.04 to the first-named Respondent Tenant, in four equal consecutive instalments at the rate of €1,000 per calendar month, on the 28th day of each month, followed by one further installment of €759.04 in the immediately succeeding month, commencing the next month after the issue of the Order. This sum represents damages of €5,000 awarded to the first named Respondent Tenant pursuant to section 113 of the Act, in respect of the unlawful termination of the tenancy of the dwelling at 57 Woodville Manor, Tom Bellew Avenue, Dundalk, Co. Louth having deducted the rent arrears due by her (€240.96) and having made an allowance in respect of her share of the deposit.

3. The Appellant Landlord shall pay the total sum of €280 to the second-named Respondent Tenant within 28 days after the issue of the Order being an overpayment of rent and a refund of his share of the deposit in respect of the said dwelling and having deducted his share of the rent arrears.

4. The enforcement of th Order for the payments due to the first-named Respondent Tenant will be deferred and the total sum owing reduced by the cumulative sum paid in the monthly instalments made by the Appellant Landlord to the first-named Respondent Tenant on each due date until such time as the total sum of €4,759.04 has been paid in full.

5. For the avoidance of doubt, any default in the payment of any of the monthly instalments shall act to cancel any further deferral and the balance due at the date of default of any such monthly payment shall immediately become due and owing to the first-named Respondent Tenant. In the event of default in the payment to the second-named Respondent Tenant it shall immediately become due and owing.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 11/01/2019.

Signed: 

Dairine Mac Fadden Chairperson
For and on behalf of the Tribunal.