

Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR1122-005825 / Case Ref No: 1022-80306

Applicant Tenant:	Boguslaw Sajor
Respondent Landlord:	Patrick Watson
Address of Rented Dwelling:	Elm Cottage, Timahoe West, Coill Dubh, Naas, Co. Kildare, W91DY0P
Tribunal:	Healy Hynes (Chairperson) Brian Murray, Maureen Cronin
Venue:	Virtual hearing via Microsoft Teams
Date & time of Hearing:	26 April 2023 at 2:30 p.m.
Attendees:	Danny Nolan, Applicant Tenant Solicitors Hanna Korpik, Applicant Tenant Witness Patrick Watson, Respondent Landlord Maria Watson, Barrister for Landlord
In attendance:	Maja Janeczek, Interpreter Audio recording technician, appointed by RTB

1. Background:

On 03/10/2022 the Tenant made an application to the Residential Tenancies Board ("the RTB") pursuant to Section 78 of the Act. The matter was referred to a mediation which took place on 15th November 2022.

Subsequently a valid appeal was received from the Tenant by the RTB on 24th November 2022.

In accordance with Sections 102 and 103 of the Act, the RTB constituted a Tenancy Tribunal and appointed Healy Hynes, Maureen Cronin and Brian Murray as Tribunal members, pursuant to Section 102 and 103 of the Act and appointed Healy Hynes to be the chairperson of the Tribunal ("the Chairperson").

On 26th April 2023 at 14.30 the Tribunal convened a virtual hearing on Microsoft Teams.

2. Documents Submitted Prior to the Hearing Included:

RTB Tribunal case files.

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 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 appealed (the Applicant) would be invited to present their 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 Applicant.

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 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 €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 Tribunal asked the parties if they wished to take the opportunity of a short recess to see if an agreement could be reached, the terms of which the Tribunal could adopt as part of its order. Mr. Nolan confirmed he had his client's authority to bind him in an agreement and the parties wished to take the opportunity. In that context, the Tribunal rose to facilitate same. The Tribunal reconvened at 2.55 and the parties confirmed they did not wish to do so.

All parties giving evidence were duly affirmed.

5. Submissions of the Parties:

Preliminary Matters

In the matter of a tenancy dispute between the Applicant Tenant and the Respondent Landlord, a preliminary matter was raised by Ms. Watson, the barrister representing the Respondent Landlord. She argued that the claim made by the Applicant Tenant was statute barred as it was submitted to the Residential Tenancies Board (RTB) nine months after the alleged termination of tenancy on 8th January 2022. Ms. Watson pointed out that under Section 80 of the Residential Tenancies Act, which states that:

A dispute relating to the validity of a notice of termination which has been served or purported to be served may not be referred to the Board for resolution at any time after—

(a) where section 67 or 68 applies, the period of 28 days, or

(b) in all other cases, the period of 90 days, has elapsed from the date of receipt of that notice.

She submitted that the tenant in this matter should have brought a claim within 28 days after the termination of the tenancy or at most, Ms. Watson submitted that the claim should have been brought before the RTB within 90 days of the alleged termination.

Ms. Watson also said that the exception for an extension of time referred to in Section 88 of the Residential Tenancies Act, was not applied for by the Applicant Tenant. Ms. Watson argued that the reason this was only being brought up now is that the mediation in this case proceeded by paper and that the Respondent Landlord would not have had knowledge of such legal arguments.

In response, Mr. Nolan, the solicitor representing the Applicant Tenant, argued that the matter was for the Tribunal to decide. Mr. Nolan also stated that the Respondent Landlord had terminated the tenancy on the grounds of anti-social behaviour and that a notice to terminate (NoT) was required to be served, but was not served as the Applicant Tenant was arrested and in custody.

Mr. Nolan further argued that the Applicant Tenant was in custody for only two weeks and was on bail until sentencing. Therefore, it was not feasible for the notice of termination to be served during this time.

The Tribunal rose to consider the matter. Upon resumption the Tribunal advised the parties that it would hear the substantive matters in hand and advise the parties of its findings in relation to the preliminary matter in its report. Ms. Watson referred the Tribunal to the Tribunal of the case of Beakey Appellant Landlord as a point of reference.

Ms. Watson, then proceeded to her second preliminary matter in which she argued that the Applicant Tenant was not available for viva voce evidence (oral examination) and that any documents presented by the Applicant Tenant should not be given any weight. Ms. Watson argued that the Respondent Landlord had a right to fair procedures in accordance with Natural Justice, which requires the opportunity to cross-examine any evidence presented.

Ms. Watson cited a 1971 Supreme Court decision that states that in any instance where conduct requires cross-examination, any procedures that restrict vindication must be outlawed. She further argued that in proceedings before a Tribunal, where a party is at risk of having their good name jeopardised, any procedures that restrict vindication must be outlawed. Ms. Watson argued that any evidence presented without viva voce examination is inadmissible.

In response, Mr. Nolan, the representative for the Applicant Tenant, stated that he could not give evidence as the Applicant Tenant was not available for viva voce evidence. Mr. Nolan repeated what was in the written statement and was asked to admit to the written evidence.

Ms. Watson objected to any statements being given in evidence without viva voce examination, citing the principle of fair procedures. Mr. Nolan argued that no weight could be given to any evidence presented without the opportunity for cross-examination.

The Tribunal highlighted the High Court decision in Stulpinate which held that the Residential Tenancies Board (RTB) has the power to act on documentary evidence as it deems appropriate, subject to objections being heard. Mr. Nolan argued that the RTB should have the power to hear objections to documentary evidence and should not be restricted to viva voce examination.

Ms. Watson then proceeded to her third preliminary matter in which she objects to a particular submission made by the Applicant Tenant on the grounds that it is inadmissible

and in breach of the rules of evidence. Specifically, the submission of the newspaper article is considered prejudicial and has no relevance to the case at hand. Ms. Watson argued that this is a breach of the rule of evidence which requires that evidence be relevant to the matter at hand. On behalf of the Respondent Landlord she requested that the Tribunal disregard this submission and any other evidence that does not meet the standard of admissibility under the rules of evidence.

Applicant Tenant Case:

The Applicant Tenant's legal representative said that his client submits that the Tenant did not vacate the property, but rather was locked out while in custody and was unable to regain possession of their belongings upon their return two weeks later. The representative notes that he (Mr. Nolan) represented the Tenant in their bail and criminal case and that conditions were attached, including that the Tenant was to reside at the property, which had to be amended. He said that the Tenant had paid rent in the amount of €2,100 on January 5, 2021, and was not in arrears. The representative asserts that the Tenant had the landlord's consent to keep a dog on the property and that the landlord was aware of the presence of a greenhouse and CCTV. The representative argues that the landlord was not entitled to serve a notice of termination when drugs were found and that the landlord repossessed the property when the Tenant was arrested.

The Tenant's legal representative also stated that the landlord agreed to allow the Tenant to have a dog on the property and took photos of the interior of the property showing the Tenant's possessions when the property was put up for sale. The Tenant left behind various items, including toys, cutlery, a coffee machine, a fridge freezer, a washing machine and dryer, a greenhouse, a lawnmower, a desk, and three beds. The Tenant denies being in arrears and vacating the property. The representative asserts that the Tenant's use of cannabis was an issue but that the landlord was not entitled to serve a notice of termination and did not do so.

Applicant Tenant Witness Hanna Korpik

According to Ms. Korpik, she was asked by her ex-partner, Boguslaw Sajor, with whom she has three children, to remove his belongings which were left in the house after he was locked out. The items that were not returned include toys, clothes, a TV, beds, food, baby bottles, and medicine. On January 6th, 2022, she visited the house to collect some belongings for the Applicant Tenant and on January 13th, 2022, she met with the Respondent Landlord at the property, but was not allowed to take everything. She was only allowed to take some clothes and business items for the Applicant Tenant, such as a drum and a laptop. She was not able to retrieve any personal papers and was told that the Respondent Landlord was keeping the washing machine and dryer due to damage caused by a Garda raid. She never returned to the property on instructions from Applicant Tenant solicitors and the Respondent Landlord. The Applicant Tenant partner also contacted the Respondent Landlord but never received a response. Ms. Korpik herself never lived in the property and was only asked to attend by Applicant Tenant. Applicant Tenant wanted everything sent to his mother in Poland and asked her to clean the house, pack all belongings, and send them to Poland. Ms. Korpik believes that the Applicant Tenant did not intend to return to the property as he was unsure if he would be sentenced and released on bail.

Cross examination of Hanna Korpik by Maria Watson

Ms. Korpik was asked if she had ever lived in the property, to which she responded that she had not and that she was Mr. Sajor's ex-partner. Ms. Korpik was then asked about her knowledge of Mr. Sajor's drug use, and she stated that it was one of the reasons for their split.

Ms. Watson then asked Ms. Korpik about her attendance at the property on January 9th, and who was present in the property at the time. Ms. Korpik stated that Mr. Sajor's friend from Latvia was on holiday and had been in the property a few times, but she couldn't say if he was living there. Ms. Korpik also corrected her earlier statement and stated that she attended the property on January 9th, not January 13th.

Ms. Korpik went on to describe how she arrived on her own and was later joined by three friends and two vans to collect Mr. Sajor's belongings. The landlord had asked them to bring bigger cars, and the witness rang friends to bring more belongings. They removed a Christmas tree, two TVs, some gifts, a parrot, cleaning supplies, and a sound system. They also removed some bottles of alcohol, which the landlord disputed. On questioning from the Tribunal she said she was told by the Applicant Tenant to remove all his belongings and send them to his family abroad as he expected to be incarcerated as a result of his arrest. She said he was leaving the property.

Ms. Korpik was then asked about the damage to the property, and stated that she was in a position to fix the damage, including replacing skirting and painting the house. When asked if she were aware of the cost of the repairs, she stated that she did not know but would be willing to pay for any repairs required.

Ms. Korpik was asked about her occupation and stated that she was a part-time worker in a tea company and received HAP. Ms. Watson then asked if Mr. Sajor's family could cover the costs of any repairs, and the witness stated that she did not know.

Ms. Korpik was also asked about attempts to contact the landlord regarding a dog that had been left in the property. She stated that she had told the landlord that she did not know where to house the dog, but the landlord's family wanted the dog. Ms. Korpik had taken the parrot but did not know if the landlord had called the DSPCA for the dog.

When asked about the obligation to restore the house, Ms. Korpik stated that she had no obligation to do so. However, she had involved herself in the matter because Mr. Nolan had asked her to assist Mr. Sajor, who had no family in the area.

Applicant Tenant Closing

In closing submissions Mr. Nolan argued that the Respondent Landlord had unlawfully entered the property. The entry was premature as his client was only a suspect at that time. Changing of locks was unlawful and his client was seeking €10,000 damages in the matter. He had to seek alternate accommodation and property seized by the Respondent Landlord amounted to €7,000.

Respondent Landlord Case:

The Respondent Landlord, stated that he was an aero engineer. The Respondent Landlord stated that the property in question was his family home for 14 years, and he moved out, with the Applicant Tenant being the first tenant. The Respondent Landlord stated that he did not know the Applicant Tenant before renting the property to him and had no knowledge of any illegal activities.

The Respondent Landlord stated that the Applicant Tenant entered an agreement on April 1st, 2021, and rent was paid by the Applicant Tenant in cash from premises in Clondalkin. The lease agreement provided the bank account details, but the Applicant Tenant proposed to pay in cash when collecting the keys. The Respondent Landlord stated that this raised a red flag, but he thought the Applicant Tenant had a cash-rich business. Rent was collected monthly, and the date would vary. The Respondent Landlord occasionally attended the house, and the utilities were left in his name.

The Respondent Landlord stated that the original lease was for six months, and if it was longer, he would have transferred the utilities. The Respondent Landlord inspected the property at the end of the six months and found that the standard of the house was poor. There was a smell of dog, and the gardens were in poor condition. The Applicant Tenant was told to address these issues.

On January 6th, 2022, the Respondent Landlord was contacted by Garda Drug Squad. The house was searched, and significant drugs were found. Another person was found, and the house was deemed not habitable when they visited. The Respondent Landlord visited the next day and saw someone there who he did not know; this person was aggressive towards him. The house was in poor condition, and there were animals present, with chemicals in the boiler house posing a safety hazard.

The Respondent Landlord was invited inside but felt unsafe and left because of the drug offences. He returned the next day with the Gardai and identified the occupant as Andreas Scarstance. This person was told to leave, and his belongings would be returned by the Gardai. There was some resistance, and the person set his German Shepherd on the Respondent Landlord and Gardai. This person only collected whiskey and was asked to get into the squad car but kicked it. The Gardai then brought him to public transport.

After this person was eventually removed from the property, the Respondent Landlord said he was asked to re-enter the property due to an emergency situation with the chemicals.

The Respondent Landlord found that the house had been trashed, with skirting boards chewed and eaten. Topsoil had been dumped, waste pallets were present, and there was no draining at the back of the property. There was moss growing, building rubble, and cavity blocks. The Respondent Landlord had then collected the waste in a skip. This was shown to the Tribunal in photos contained in the case files.

The Respondent Landlord said he found a German shepherd and a parrot in a large cage in the house, despite the lease agreement not allowing animals. The boiler house to the rear had a wooden baffle wall and contained 750 litres of MEK chemical, a solvent used as a precursor for cocaine and amphetamines according to the Respondent Landlord. The Respondent Landlord said he knew from his work in the aerospace industry that the vapours from the chemicals posed a significant risk, and an explosion was imminent.

The Respondent Landlord deemed it necessary to re-enter the property due to the emergency situation with the chemicals.

On the 9th of January 2022, the Respondent Landlord said that the Applicant Tenant's witness Ms. Korpik arrived at the house. He said she was supposed to be accompanied by the gardai, as he had no idea of the risks involved. As a goodwill gesture, the Respondent Landlord said she was allowed to enter the house and take what she could. She chose the parrot and kids' items, including clothes. He said she wanted to come back with another person to take more high-value items, which was agreed to. However she did not identify

who would be coming with her. She came in and wanted high-value items, and there were questions over the ownership of the appliances. The Respondent Landlord said the Applicant Tenant had damaged some of Respondent Landlord appliances, and Respondent Landlord was allowed to take these as replacements. He said all appliances were provided in the lease, and he was not notified of any of them not working. He said integrated appliances were in the house.

He said there were shelves of alcohol in the house, but he had no idea when they were taken. He said the other resident took alcohol, as did the tenant's partner. On the 8th of January 2022, when the Respondent Landlord took possession of the property with the Gardai there were pints of vomit on the kitchen table.

He said that the best of materials went into the house. The composite front door chewed by dog as were skirtings as evidenced by Tribunal Case File 5, page 15 & 16. He said that a CCTV system was installed without permission.

When asked by the Tribunal why he never raised a dispute with the RTB until the tenant initiated their claim he said that he did not make the application as the Applicant Tenant was in prison. He now claimed for €21,404 damages as vouched in Tribunal Case File 5. He said that there was no consent for a greenhouse, 2 raise flower beds were destroyed, the drainage was blocked and the soak pits were prevented from working. He also pointed to Tribunal case File 5 page 22 for damage where Gardai had entered the premises. When asked why he felt the Applicant Tenant had vacated the property he said that he was informed by gardai that it was unlikely the Applicant Tenant would make bail and that he would be incarcerated until sentencing. He said that with the dangerous chemicals and the illegal lodger the house was unsafe. He said Gardai told him the Applicant Tenant would not make bail and he was not therefore in a position to give formal notice.

Cross examination of Mr. Watson by Mr. Nolan

On cross examination by the Applicant Tenant Legal Representative, the Respondent Landlord confirmed that the tenancy was registered but was unsure when. When asked if he was aware that the tenant had gained bail, the landlord stated that he was informed differently by the gardai. Mr Nolan stated that on behalf of his client he applied for bail with the tenant's address, but this had to be altered as a result of the actions of the Respondent Landlord. Mr Nolan asked about an illegal person in the house, who was identified as a Lithuanian who the tenant instructed to stay there. The landlord confirmed that this person was living there, which was not allowed. The landlord also confirmed attending the property to replace an oil boiler and being aware that the person was there but he was not aware he was living there at the time. He thought the person may have been a guest or a visitor.

Legal Representative Ms. Watson closing on behalf of Respondent Landlord

The Legal Representative argued that the Applicant Tenant had vacated the property due to information given by the Gardai, and the Respondent Landlord re-entered in accordance with the lease, which permits re-entry in emergencies. She pointed out that the breaches committed by the Applicant Tenant were fundamental in law and therefore terminated the agreement. Ms. Watson also argued that anti-social behaviour gave the landlord the right to terminate without giving the Applicant Tenant an opportunity to remedy.

She referred to Section 17(1) commission of offence and pointed out that the Applicant Tenant had been arrested and sentenced for possession of €1.6 million of drugs, which was illegal behaviour and that the dangerous chemicals put the property and the

neighbours at risk of injury and damage. She argued that this constituted peaceful possession, which Mr. Watson had a right to do. She also argued that frustration arises in contract law when the contract cannot be performed beyond the control of either party, and in this case, the Applicant Tenant arrest and imprisonment constituted such a frustration.

Ms. Watson stated that the Respondent Landlord was legally entitled to re-enter the property at the foot of Garda instructions, as per the 3.11 clause of the lease agreement. She also pointed out that the Applicant Tenant had a risk of terminating the tenancy and discharging any obligations that the Respondent Landlord may have had. In conclusion, she argued that Mr. Watson had acted within his rights and that the tenancy agreement had been terminated lawfully. She referenced the following cases to support her position:

Walsh & St Vincent De Paul. TR1217-002731/DR0917-37042 14 May 2018

Dada & Cluid - TR0317-002240/DR0117-31418 17 May 2017

Travers & Smith. TR01-DR693 & 786-2006 date 22 May 2006

Hennessy & RTB. 2016 IEHC174 Unreported High Court Baker J 5/4/2016.

6. Matters Agreed Between the Parties:

The following matters were agreed between the Parties:

Address of the dwelling is Elm Cottage, Timahoe West, Coill Dubh, Naas, Kildare, W91DY0P, Ireland

The tenancy commenced 05/01/2021

Rent was originally €2,190 per month

Rent was in the amount of €2,100 per month

Rent was payable monthly in advance

Payable on the 5th of the month.

A deposit of €2195 was paid.

The tenancy terminated on 8/01/2022

6/1/2022 dwelling searched by Gardai

The deposit remains with the landlord.

7. Findings and Reasons:

Having considered all of the documentation before it, and having considered the evidence presented to it by the Parties including but not limited to the expressly referred to in the submissions above, the Tribunal's findings and reasons thereof, are set out hereunder.

Finding: The matter is not statute barred.

Reasons: Section 80 of the Residential Tenancies Act, which states that:

A dispute relating to the validity of a notice of termination which has been served or purported to be served may not be referred to the Board for resolution at any time after—

(a) where section 67 or 68 applies, the period of 28 days, or

(b) in all other cases, the period of 90 days, has elapsed from the date of receipt of that notice.

Section 67 relates to Period of notice for termination by landlord where tenant in default.

& 68 related to periods of notice for termination by tenant where landlord in default.

In this instance, it is common between the parties that no notice whatsoever was served or purported to be served by the Respondent Landlord, whether valid or invalid. The Respondent Landlord simply re-took possession of the property and the matter at issue was the lawfulness of that action.

As such the Tribunal finds that Section 80, and by extraction section 88, do not apply as no notice has been served.

Finding: An unlawful termination took place on 8/01/2022.

Reasons: A deemed termination takes place when a tenant has vacated a property, served an invalid notice of termination and fallen 28 days into arrears of rent.

Rent in this matter was payable on the 1st of the month. The tenant herein was arrested and subsequently jailed for possession of drugs on the 8th of the month. He was therefore not in arrears when the Respondent Landlord retook possession of the property. Therefore the Respondent Landlord cannot argue that by being arrested the Applicant Tenant deemed the tenancy terminated by vacating. The evidence of the Applicant Tenant witness clearly suggests that he intended to vacate the property as a result of his incarceration, the Respondent Landlord, despite possessing a bona fide belief that the tenant was not returning to the dwelling, pre-empted this position by retaking possession in advance of the Applicant Tenant vacating the property and without due regard and compliance with his obligations under the Residential Tenancies Act 2004.

The Tribunal is further satisfied that the behaviour of the Tenant in the period up to the termination of tenancy is clear and conclusive evidence of anti-social behaviour within the meaning of section 17 (1) (b) and 17 (1) (c) of the Act. The Landlord was therefore entitled to serve a 7 day notice for anti-social behaviour.

Section 16 (h) of the Residential Tenancies Act 2004 (RTA) as amended states that it is a tenant's obligation "not behave within the dwelling, or in the vicinity of it, in a way that is antisocial or allow other occupiers of, or visitors to, the dwelling to behave within it, or in the vicinity of it".

As per section 17 "behave in a way that is anti-social" means—

(a) engage in behaviour that constitutes the commission of an offence, being an offence the commission of which is reasonably likely to affect directly the well-being or welfare of others,

(b) engage in behaviour that causes or could cause fear, danger, injury, damage or loss to any person living, working or otherwise lawfully in the dwelling concerned or its vicinity and, without prejudice to the generality of the foregoing, includes violence, intimidation, coercion, harassment or obstruction of, or threats to, any such person, or

(c) engage, persistently, in behaviour that prevents or interferes with the peaceful

occupation— (i) by any other person residing in the dwelling concerned, of that dwelling,

(ii) by any person residing in any other dwelling contained in the property containing the dwelling concerned, of that other dwelling, or (iii) by any person residing in a dwelling

(“neighbourhood dwelling”) in the vicinity of the dwelling or the property containing the dwelling concerned, of that neighbourhood dwelling.

In the instances of (a) above a landlord is entitled to serve a 7 day notice of termination but as mentioned before, the Respondent Landlord did not do so.

The Tribunal then turns its attention to the damages that may accrue to the Applicant Tenant as a consequence of the Respondent Landlord breach of obligations. As the Applicant Tenant intended to vacate the property on foot if his arrest the Tribunal finds that no loss accrued. If the landlord had not done what they did, the Applicant Tenant herein would have carried out a deemed termination of tenancy and would have had the same issues when faced with the unexpected bail. In accordance with its powers under S.115 of the Act the Tribunal therefore does not think it appropriate to provide relief in the matter.

Finding: The Applicant Tenant is in breach of obligations in causing damage beyond normal wears and tear.

Reasons: The Landlord submitted a number of photos and gave substantial evidence in relation to the condition of the dwelling. The original application to the RTB in this matter was from the Applicant Tenant in relation to the eviction however as the Mediator in the matter had a duty to fully enquire into all matter relating to the tenancy, and the matter of damage was brought to the Mediators attention the Tribunal finds that it is appropriate for it to consider same. The Tribunal references Tribunal Case File 1 page 23 as follows:

Item 1: Outstanding Electricity Bill - €216 (Labour: €0)

Item 2: Waste Removal - 6 cu size skip hire - €280 (Labour: €500)

Item 3: Skirting and Window Boards Replacement & Painting - €350 (Labour: €450)

Item 4: Electrical Sockets and Removal of CCTV Camera System - €140 (Labour: €700)

Item 5: Replacement of Extra Flame 14Kw Pellet Stove - €350 (Labour: €0)

Item 6: Dry Lining Repairs and Painting - €0 (Labour: €500)

Item 7: Deep Clean of House - €0 (Labour: €350)

Item 8: Stair Carpets Replacement - €350 (Labour: €100)

Item 9: Ground Works (Removal of Soil, Rubble, Green House, General Clean Up) - €0 (Labour: €900)

Item 10: Curtain Replacement for Sitting Room (Qty x 2) - €250 (Labour: €0)

Item 11: Stira Attic Door Replacement - €300 (Labour: €300)

Item 12: Integrated Whirlpool Fridge - €649 (Labour: €100)

Item 13: Hallway Furniture (Antique Chaise long and Side Table) Damaged - €500 (Labour: €0)

Item 14: Living Room Wool Rug & Beanbag Missing - €450 (Labour: €0)

Item 15: Bedside Locker Missing in Bedroom #1 - €100 (Labour: €0)

Item 16: Studio Flat Front Door Replacement - €2,200 (Labour: €1,000)

Item 17: Lawnmower Electrical Charger Missing - €100 (Labour: €0)

Item 18: Integrated Whirlpool Microwave Replacement - €320 (Labour: €50)

Item 19: Repairs for Drains Blocked with Chemical Waste - €250 (Labour: €500)

Item 20: Locks Replacements - €190 (Labour: €0)

Total cost of items: €6,995 Total Labour cost: €5,450

Grand total: €12,445

Security deposit: €2,195

Total due: €10,250

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Overdue Electricity Bill Amount due: €216 Amount paid: €0

Waste Removal - 6 Cubic Meter Skip Hire Amount due: €280 Amount paid: €500

Skirting and Window Boards Replacement & Painting Amount due: €350 Amount paid: €450

Electrical Sockets and CCTV Camera System Removal Amount due: €170 Amount paid: €0

Extra Flame 14Kw Pellet Stove - Hot Plate Replacement Amount due: €90 Amount paid: €0

Dry Lining Repairs and Painting Amount due: €0 Amount paid: €500

Deep Clean of House Amount due: €0 Amount paid: €350

Stair Carpets - Replacement Amount due: €1,393 Amount paid: €0

Ground Works (Removal of Soil, Rubble, Green House, General Clean Up) Amount due: €0 Amount paid: €900

Curtain for Sitting Room - Replacement Amount due: €509 Amount paid: €0

Stira Attic Door - Replacement Amount due: €619 Amount paid: €300

Integrated Whirlpool Fridge Amount due: €749 Amount paid: €80

Integrated Washing Machine Amount due: €699 Amount paid: €80

Integrated Whirlpool Microwave - Replacement Amount due: €649 Amount paid: €50

Living Room Wool Rug Amount due: €579 Amount paid: €0

Living Room Bean Bag Amount due: €229 Amount paid: €0

Hallway Furniture (Chaise Longue Bench, Side Table) Amount due: €413 Amount paid: €0

IKEA Bedroom Furniture (3 Single Beds + Mattresses, 1 Bedside Locker) Amount due: €1,764 Amount paid: €300

Studio Flat Front Door - Replacement Amount due: €2,803 Amount paid: €900

Main House Front Door Side Light - Replacement (Approximate) Amount due: €3,235 Amount paid: €0

Lawnmower Electrical Charger Missing Amount due: €70 Amount paid: €0

Repairs for Blocked Drains with Chemical Waste Amount due: €510 Amount paid: €500

Mains Water Connection Amount due: €2,272 Amount paid: €900

Subtotal [€]: Amount due: €17,789 Amount paid: €5,810

Grand Total [€]: Amount due: €23,599

Security Deposit [€]: Amount paid: €2,195

Total Due [€]: Amount due: €21,404

The Tribunal notes that by taking possession of the property in advance of the Applicant Tenant terminating the tenancy themselves, the Respondent Landlord removed the Applicant Tenants ability to remedy any breach of obligations by causing any damage beyond normal wear and tear. Furthermore although 2 schedules were provided no invoices were submitted.

The Tribunal notes that a deposit of €2,195 was paid by the Applicant Tenant at the commencement of tenancy and that in taking back the property in advance of the tenant vacating same, in accordance with its powers under S.115 of the Act, the Tribunal therefore finds this is the appropriate amount to provide relief in the matter.

8. Determination:

In the matter of Boguslaw Sajor (Applicant Tenant) and Patrick Watson (Respondent Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

An unlawful termination was carried out by the Respondent Landlord on the Applicant Tenant, in respect of the tenancy of the dwelling at Elm Cottage, Timahoe West, Coill Dubh, Naas, Kildare, W91DY0P, Ireland.

The Applicant Tenant is breach of obligations in causing damage beyond normal wear and tear, in respect of the tenancy of the dwelling at Elm Cottage, Timahoe West, Coill Dubh, Naas, Kildare, W91DY0P, Ireland.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 11/05/2023.

Signed:



Healy Hynes, Chairperson

For and on behalf of the Tribunal.