

**Residential Tenancies Board**

**RESIDENTIAL TENANCIES ACT 2004**

**Report of Tribunal Reference No: TR1222-005840 / Case Ref No: 0522-77489**

**Appellant Landlord:** Gateway Student Village

**Respondent Tenant:** Jack O'Callaghan, Adam Quinn, Brendan Reilly,  
James McPhillips

**Address of Rented Dwelling:** Apartment 35, Block C, The Gateway Student  
Village, Main Street, Dublin 9, D09A394

**Tribunal:** Michelle O' Gorman (Chairperson)  
Dervla Quinn, Hugh Markey

**Venue:** Tribunal Room, RTB, 2nd Floor, O'Connell Bridge  
House, D'Olier Street, Dublin 2

**Date & time of Hearing:** 06 March 2023 at 2:30 p.m.

**Attendees:** For the Appellant Landlord:  
No appearance  
For the Respondent Tenants:  
Roisin O' Callaghan, Respondent Tenant's  
Representative  
Jack O'Callaghan, Adam Quinn, Brendan Reilly,  
James McPhillips (Respondent Tenants)

**In attendance:** RTB appointed stenographer

**1. Background:**

On 27/05/2022 the Tenant made an application to the Residential Tenancies Board ("the RTB") pursuant to Section 78 of the Act. The matter was referred to an Adjudication which took place on 01/11/2022. The Adjudicator determined that:

"In the matter of Jack O'Callaghan, Adam Quinn, Brendan Reilly, James McPhillips (Applicant Tenant(s)) and Gateway Student Village (Respondent Landlord(s)), the Residential Tenancies Board, in accordance with Section 97 of the Residential Tenancies Act, 2004, as amended, determines that:

3. The Landlord is in breach of its obligation pursuant to Section 12(1)(d) to promptly repay the deposit paid by the Applicant Tenants in respect of the tenancy of the dwelling situate at Apartment 35, Block C, The Gateway Student Village, Main Street, Dublin 9, D09A394. The Landlord shall return the deposit in the sum of €1,600 to the Applicant Tenants within 21 days of the issuance of the Determination Order to the parties

4. The termination of the tenancy of the dwelling at Apartment 35, Block C, The Gateway Student Village, Main Street, Dublin 9, D09A394 by the Respondent Landlord on the 13th May 2022 was unlawful.

5. The Respondent Landlord shall pay to the Applicant Tenants the sum of €1,316 in respect of overpaid rent in respect of the tenancy of the dwelling at Apartment 35, Block C, The Gateway Student Village, Main Street, Dublin 9, D09A394 within 21 days of the date of the issue of the Determination Order to the parties.”

Subsequently the following appeal was received from the Landlord on 30/11/2022 and thereafter approved by the RTB on 06/01/2023.

The RTB constituted a Tenancy Tribunal and appointed Michelle O' Gorman, Dervla Quinn, and Hugh Markey as Tribunal members pursuant to Sections 102 and 103 of the Act and appointed Michelle O' Gorman to be the chairperson of the Tribunal (“the Chairperson”).

On 09/02/2023 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 06/03/2023 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:**

RTB Tribunal case file.

## **3. Documents Submitted at the Hearing Included:**

None.

## **4. Procedure:**

The Appellant Landlord, having appealed the adjudication heard on the 1 November 2022 did not attend the hearing. On noting that the Appellant Landlord was absent, the Tribunal contacted the relevant caseworker for the dispute in the RTB who confirmed that the Appellant received the relevant notifications for the appeal hearing and in particular that they had not made contact with the RTB in relation to their non-attendance at the appeal hearing.

## **5. Submissions of the Parties:**

Noting that the Appellant was not in attendance and having waited for a period in excess of 10 minutes, the Tribunal opened the appeal hearing. The Tribunal notes that the Appellant Landlord appealed the Adjudicator's findings, and that the RTB have advised that the Appellant Landlord received confirmation of the hearing notice and had not made contact with the RTB in relation to non-attendance prior to the hearing. As the appeal could not proceed in the absence of the Appellant Landlord the Tribunal deemed the appeal to have been abandoned. The determination reached by the Adjudicator following the adjudication hearing held on 1 November 2022, is therefore affirmed.

## **6. Matters Agreed Between the Parties:**

None.

## 7. Findings and Reasons:

Finding:

Being satisfied that there was no material reason for the Appellant Landlord's non-attendance at the hearing and in circumstances where the appeal was not withdrawn by the Appellant Landlord, the Tribunal finds that the Appellant Landlord's appeal has been abandoned and that the Adjudicator's decision (Case No. 0522-77489) in the matter of the dispute between the Appellant Landlord and the Respondent Tenants stands.

Reason:

The Tribunal is satisfied that the Appellant Landlord was on notice of the hearing on 6 March 2023 and has noted that the Appellant Landlord did not attend the appeal hearing nor did any representative attend on their behalf. There was no communication received by the Board in advance of the commencement of the said appeal requesting that the appeal be adjourned or be determined in his absence on the basis of written submissions only. In the circumstances the Appellant's appeal is not upheld and the appeal is deemed abandoned.

## 8. Determination:

In the matter of Gateway Student Village (Appellant Landlord) and Jack O'Callaghan, Adam Quinn, Brendan Reilly, James McPhillips (Respondent Tenants) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

1. The Appellant Landlord's appeal in respect of the tenancy of the dwelling at, Apartment 35, Block C, The Gateway Student Village, Main Street, Dublin 9, D09A394, is deemed abandoned by virtue of the non-attendance of the Appellant Landlord at the Tribunal hearing on 6 March 2023.
2. The Adjudicator's decision in the matter (Case No. 0522-77489) in relation to the dispute between the Appellant Landlord and Respondent Tenants stands.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 06/03/2023.

Signed:



**Michelle O' Gorman, Chairperson**

For and on behalf of the Tribunal.