

Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0725-008934 / Case Ref No: 0425-104561

Applicant Landlord:	Thomas Maguire
Respondent Tenant:	Andrejs Lukasevics, Liana Selementjeva
Address of Rented Dwelling:	Apartment 4, Brackley, Russel Quay, Ballyconnell, Cavan, H14PY19
Tribunal:	Suzy Quirke (Chairperson) John Keaney, Karen Ruddy
Venue:	Virtual
Date & time of Hearing:	14 October 2025 at 2:30 p.m.
Attendees:	For the Applicant Landlord: James Spring, REA Donohoe Spring (Applicant Landlord's Representative) For the Respondent Tenant: There was no appearance by or on behalf of the Respondent Tenants
In attendance:	RTB appointed recording technician

1. Background:

On 18/04/2025 the Landlord made an application to the Residential Tenancies Board ("the RTB") pursuant to Section 78 of the Act. The matter was referred to an Mediation which took place on 03/07/2025.

Subsequently the following appeals were received:

Landlord : received on 11/07/2025. The grounds of the appeal: Rent arrears and overholding ; Approved by the Board on 17/07/2025.

The RTB constituted a Tenancy Tribunal and appointed Suzy Quirke, John Keaney, Karen Ruddy as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Suzy Quirke to be the chairperson of the Tribunal ("the Chairperson").

On 18/09/2025 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 14/10/2025 the Tribunal convened a hearing using Microsoft Teams.

2. Documents Submitted Prior to the Hearing Included:

RTB case file.

3. Documents Submitted at the Hearing Included:

None.

4. Procedure:

At the outset of the hearing the Chairperson asked the Party present to identify themselves and to identify in what capacity they were giving evidence to the Tribunal. The Chairperson confirmed with the Party that they had received the relevant papers from the RTB and that they had received and understood the RTB document entitled "Tribunal Procedures".

At the outset of the hearing there was no attendance by or on behalf of the Respondent Tenants. The Chairperson explained the procedure which would be followed and that the Tribunal was a formal procedure but that it would be conducted in a manner that would be as informal as possible. The Tribunal set out that the Applicant Landlord's Representative present would be invited to present their case; that in the absence of the Respondent Tenants there would not be an opportunity for cross examination of the Applicant Landlord's evidence or submission of the Respondent Tenants' evidence. The Chairperson stressed that all evidence would be taken on civil affirmation and reminded the party present that knowingly providing false or misleading 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 noted that the proceedings were being recorded by the appointed digital logger.

The Chairperson also reminded the Party present 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.

As there was no appearance by the Respondent Tenants at the scheduled start of the hearing, the hearing was delayed by 15 minutes in order to allow for any technical problems the Respondent Tenants might be experiencing in joining the hearing on the virtual platform. By 14.45 there was no attendance by the Tenants nor had any submission for adjournment or representation been made by them or on their behalf. Accordingly the Applicant Landlord's Representative was affirmed and the Tribunal proceeded at 14.45 and the Tribunal invited the Landlord's Representative to make their submissions.

5. Submissions of the Parties:

The Applicant Landlord's evidence:

The Landlord's Representative stated to the Tribunal that his company had let the dwelling to the Tenants and that the Applicant Landlord had managed the property himself until February 2025 when he handed the management over to REA Donohoe Spring. He said that he had acted for the Landlord for many years and that he was a decent individual and they had a good relationship. He said that the Landlord only got REA Donohoe Spring involved when there was a unit to let or an issue with a tenancy.

The Tribunal queried the Landlord's Representative about the notice of termination dated 6 March 2025 seen at page 3 of Mediation Case File 1 (DRCF 1) and asked about the reference to the 28-day warning notice referred to in the notice of termination and which was cited to be dated 4 February 2025. The Tribunal asked the Landlord's Representative why the 28-day warning notice was not provided for the Tribunal's consideration in the case

files. He said that it had not been included in the papers but he read from it at the hearing for the benefit of the Tribunal. He submitted that the Landlord had emailed him on 28 January 2025, told him the arrears figure was €1,910 and instructed him to serve a 28-day warning notice and to take over the management of the property thereafter. The Landlord's Representative said that the sum was undisputed by the Tenant. The arrears were not cleared and a notice of termination was served on 6 March 2025 citing a sum of €2,390 as the amount of rent owed at that date. The Landlord's Representative gave evidence that the 28-day rent arrears warning notice was posted to the Tenants and to the RTB on 4 February 2025 and that his office had not received an acknowledgement of receipt of the notice from the RTB. He referred the Tribunal to the RTB notice of termination Return Form seen at page 4 of DRCF 1.

The Landlord's Representative stated that the Tenant had been very difficult to communicate with but that she did engage on receipt of the notice of termination. He said that she failed to pay rent for the months of February, March, April, May and June 2025 but made a payment of the full amount of €800 for the month of July 2025 and had been paying the rent every month since then and had made an additional payment of €200 together with the rent for the month of October 2025.

The Landlord's Representative claimed that the Landlord was not seeking to terminate the Tenant's tenancy and wanted to give the Tenant a chance but that earlier in the year when she was failing to engage with REA Donohoe Spring he felt he had no choice but to serve the notice of termination in order to prevent months of rent arrears building up. The Landlord's Representative said that the Second-Named Tenant and her child were now the only occupants of the property and the First-Named Tenant, Andrejs Lukasevics, no longer lived at the address.

6. Matters Agreed Between the Parties:

The following matters were not agreed owing to the absence of the Respondent Tenants but are deemed not to be in dispute by the Tribunal - The address of the dwelling is Apartment 4, Brackley, Russell Quay, Ballyconnell, Cavan, H14PY19. The tenancy commenced on 16 September 2022 and is ongoing. The rent is €800 per month and a deposit of €650 was paid on commencement of the tenancy and is held by the Landlord.

7. Findings and Reasons:

Having considered the evidence provided and based on the balance of probabilities, the Tribunal has made the following findings:

Finding 7.1

The Tribunal finds that the notice of termination dated 6 March 2025 on grounds of breach of tenant obligations is invalid.

Reason:

The Tribunal notes Section 34 of the Act which sets out that a Part 4 tenancy may only be terminated in accordance with the provisions of this section. A Part 4 tenancy is a tenancy of greater duration than six months and clearly applies in this instance. Section 67(3) of the Act, as amended by section 12 of the RTVA 2020 requires that where the reason for a proposed termination of a tenancy is for failure to pay an amount of rent due, the condition

specified in section 67(3) must be met, before serving a Notice of Termination giving 28 days' Notice of Termination, namely:

(a) The Respondent Tenant and the Board have been given a notification (in such form as may be specified by the Board) in writing by the Landlord that such an amount of rent as is specified in the notification has not been paid to the Landlord, and

(b) That amount is not paid to the Landlord within a period of 28 days following- (i) Receipt of the notification by the Respondent Tenant, or (ii) Receipt of the notification by the Board, whichever occurs later.

The foregoing are the statutory provisions applicable in circumstances whereby the Applicant Landlord has sought to terminate the Respondent Tenants' tenancy by serving a Notice of Termination on them based on their failure to pay rent on the dates it fell due for payment, the tenancy being a tenancy of longer than six months in duration and therefore protected by the provisions of Part 4 of the Act. The Tribunal finds that while the 28-day warning notice was read out at the hearing by the Landlord's Representative, the document itself was not included in the case files and accordingly was not properly before the Tribunal. The Tribunal was therefore unable to determine its validity and therefore as a valid 28-day warning is a required precursor to serving a valid notice of termination, it follows that the Tribunal is unable to find the notice of termination valid for this reason. The Tribunal also finds, in considering the validity of the notice of termination, that the rent arrears amount stated in the 28-day warning notice and read out to the Tribunal was in the sum of €1,910. The Landlord's Representative gave evidence that he accepted the Landlord's figure but had no supporting evidence to back it up.

The Tribunal finds that to terminate a tenancy on grounds of rent arrears, the 28-day warning notice must be verified by bank statements, a rent schedule of sums due and paid or the evidence of the individual directly connected with the rent account. In this case the Landlord was managing the dwelling until the issue arose whereupon he handed the issue over to the Representative and told him that the sum owed was €1,910. This was accepted by the Representative and was quoted in the 28-day warning notice as the sum owed. The Tribunal finds that there is no evidence that this or any other greater or lesser sum was owed as at the date on which the warning notice was served and finds it must therefore fail.

Finally the warning notice was not included in the files nor was there evidence of a return form or acknowledgement by the RTB that the warning notice was served on them on the same day as it was served on the Tenant. The Tribunal noted the Landlord's Representative's evidence that his client was not 'looking to evict' a single mother and stated that he would not enforce a finding of a valid notice of termination provided the Tenant continued to pay rent and continued to engage with REA Donohoe Spring when communication was required. However for the reasons set out above the Tribunal finds the notice of termination dated 6 March 2025 is invalid.

Finding 7.2

The Tribunal finds that the rent arrears are €3,800 as at the date of the hearing and directs that they be repaid at a rate of €316 per month for 11 months with a final payment of €324 until such time as the full sum of €3,800 has been repaid.

Reason:

The Act sets out a tenant's obligation to pay rent as follows –

16.—In addition to the obligations arising by or under any other enactment, a tenant of a dwelling shall—

(a) pay to the landlord or his or her authorised agent (or any other person where required to do so by any enactment)—

(i) the rent provided for under the tenancy agreement on the date it falls due for payment,

(ii) where the lease or tenancy agreement provides that any charges or taxes are payable by the tenant, pay those charges or taxes in accordance with the lease or tenancy agreement (unless provision to that effect in the lease or tenancy agreement is unlawful or contravenes any other enactment), and

(iii) the deposit, if any, provided for under the tenancy agreement,

The Tribunal finds that the Landlord's Representative gave evidence that since he took over the management of the dwelling the Tenant had failed to pay rent for the months of February, March, April, May and June 2025. At rent of €800 per month this equates to a total sum of €4,000. The Landlord's representative also submitted that the Tenant had paid the full amount of €800 per month for the months of July, August, September and October 2025 together with an additional payment of €200 in October towards the arrears. The Tribunal finds that the only evidence before it regarding arrears is the direct evidence of the Landlord's Representative who stated that no rent was received for the five months of February through June 2025 inclusive. The Tribunal does not accept the Landlord's Representative's claim that the rent arrears were €1,910 as at early February 2025 as there is no evidence of such a sum before it.

8. Determination:

Tribunal Reference TR0725-008934

In the matter of Thomas Maguire [Applicant Landlord] and Andrejs Lukasevics and Liana Selementjeva [Respondent Tenants], the Tribunal, in accordance with Section 108(1) of the Residential Tenancies Act, 2004, as amended, determines that:

1. The notice of termination with a date of service of 6 March 2025 served by the Applicant Landlord on the Respondent Tenants, on grounds of breach of tenant obligations, in respect of the tenancy of the dwelling at Apartment 4, Brackley, Russell Quay, Ballyconnell, Cavan, H14PY19, is invalid.

2. The Respondent Tenants shall pay the total sum of €3,800 to the Applicant Landlord, by way of 11 consecutive instalments at the rate of €316 per calendar month, on or before the 28th day of each month, followed by one further instalment of €324 in the immediately succeeding month commencing the next month after the issue of the Determination Order. This sum represents rent arrears of €3,800, in respect of the tenancy of the dwelling at Apartment 4, Brackley, Russell Quay, Ballyconnell, Cavan, H14 PY19 for the period from 01 February 2025 to 30 June 2025.

3. The enforcement of the Determination Order for such payment of €3,800 will be deferred and the total sum owing will be reduced by the cumulative sum paid, in monthly instalments, by the Respondent Tenants to the Applicant Landlord, on each due date, until such time as the total sum of €3,800 has been paid in full.

4. 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 Applicant Landlord.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 16/10/2025.

Signed:



Suzy Quirke, Chairperson

For and on behalf of the Tribunal.