Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Case Reference: TR0001121 / Case Reference: DR0004964

Appellant Landlord(s):	Brian Lynch
Respondent Landlord(s):	Tanja Kovacevic
Address of rented dwelling:	Apartment 6, 226 Upper Salthill, Galway, H91PP2Y
Tribunal:	Brian Murray (Chairperson) James Egan, Andrew Nugent
Venue:	Virtual
Date & time of hearing:	30/01/2026 10:30:00
Attendees:	Representative and Witness for Appellant: James Doyle, letting agent HJ Byrne; Respondent Tenant: Tanja Kovacevic; Representative for Respondent: Graham Martin, Threshold; RTB appointed stenographer/logger

1. Background:

The Parties made applications 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 22 May 2025. An appeal was then received and the RTB constituted a Tenancy Tribunal and appointed James Egan, Brian Murray, Andrew Nugent as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Brian Murray to be the chairperson of the Tribunal ("the Chairperson").

2. Documents submitted prior to the hearing included:

Tribunal and Dispute application case files

3. Documents submitted at the hearing included:

N/a

4. Procedure:

The Chairperson opened the Hearing by asking the persons attending the Virtual Hearing to identify themselves and to identify in what capacity each was attending the Tribunal. The Chairperson confirmed with the parties that they had considered 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 Appellant Landlord's representative would be invited to present his evidence, followed by an opportunity for cross-examination by the Respondent Tenant or her representative, then the Respondent Tenant, would be invited to present her case followed by an opportunity for cross-examination by the Appellant Landlord's representative. Then both parties would be entitled to make a closing submission/statement.

The Chairperson stressed that all evidence would be taken on affirmation and be recorded by the official stenographer/recording technician present and he reminded the Parties attending 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.

The Chairperson also reminded the Parties that the hearing was a *de novo* hearing and 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.

5. Verbal Submissions

Evidence of Mr James Doyle for the Appellant Landlord

Mr Doyle stated that his firm managed the tenancy at the relevant time. He described a fire in late 2023 in Apartment 4 in the building. He said that in that incident the smoke alarms worked, the emergency lighting worked, and occupants exited safely. He stated that as a result of that incident surveys and reports then commenced in relation to the building.

Mr Doyle said there was significant engagement over time between the Fire Officer and the Appellant Landlord. He referred to recommendations for works arising from the process and said the Appellant Landlord was trying to find a way to carry out works without terminating tenancies. When asked by the Chairperson whether he was referring to the January 2024 report from Ryan & Associates, Mr Doyle said yes.

Mr Doyle gave evidence as to who commissioned the January 2024 report. He said he thought the Fire Officer had a report and recommended that the Appellant Landlord also obtain a report, and that the Appellant Landlord then obtained the Ryan & Associates report. Mr Doyle's evidence was that there was ongoing back and forth, and that the Appellant Landlord was awaiting instruction from the Fire Officer as to whether tenancies had to be terminated or whether works could be carried out while tenants remained.

Mr Doyle said there was no direct instruction to terminate tenancies until the point when the Appellant Landlord served a Notice of Termination dated 21 February 2025, giving 6 months' notice.

He said that shortly afterwards a closure order or Fire Safety Notice issued with an effective date of 10 March 2025. Mr Doyle said the Appellant Landlord contacted the Fire Officer and raised that tenants had been given 6 months' notice. Mr Doyle said that the Fire Officer indicated he preferred that tenants vacate because it was unsafe. Mr Doyle said the Appellant Landlord then understood that the Fire Officer's notice would trump the notice period.

Mr Doyle described contacting the RTB for guidance. He said the Appellant Landlord travelled to Galway to meet tenants to discuss matters. Mr Doyle said it was suggested that an overholding case might be used to allow additional time because tenants were unlikely to vacate by 10 March 2025. He described confusion and the Appellant Landlord's belief that he was acting by the book.

The Tribunal put to Mr Doyle that the core complaint advanced by the Respondent Tenant related to a January 2024 fire safety audit which identified inadequate means of escape and risks of fire spread in the context of mixed use, and that the Respondent Tenant's complaint was that these issues were identified in January 2024 but no steps were taken to remedy them before termination.

Mr Doyle responded that the Appellant Landlord was working with the Fire Officer and was waiting on the Fire Officer's instruction. He said the Appellant Landlord wanted to know if tenancies had to be terminated. He stated the Appellant Landlord was concerned about terminating without proof or justification, given the restrictions on terminating tenancies, and that the Appellant Landlord needed proof to stand over termination on substantial works. He said that was why the Appellant Landlord did not terminate earlier.

Mr Doyle accepted in answer to questions that earlier notification to tenants could have allowed them to plan and search for accommodation earlier. However, he said the Appellant Landlord was attempting to keep tenants in situ if possible, and that the Appellant Landlord believed he was doing the correct thing by engaging with the Fire Officer to determine what was required. He stated that had the Fire Officer not issued the closure order, tenants would have had 6 months to plan under the Appellant Landlord's Notice of Termination, but that this was taken away from the Appellant Landlord by the Fire Officer's action.

Mr Doyle expressed frustration at the level of compensation awarded at adjudication. He stated the Appellant Landlord could not afford an award in the region of €12,000. He also stated that there were still other occupants in the building and the Fire Officer had not, in his view, demanded that they leave, even some time later. Mr Doyle expressed regret to Ms Kovacevic and said that he believed he had a good relationship with her during the tenancy.

Cross Examination of Mr Doyle by Mr Graham Martin

Mr Martin asked why the findings of the January 2024 report were not notified to the Respondent Tenant or shared with tenants to allow them time to find alternative accommodation. He put to Mr Doyle that in January 2024 it was apparent the building had safety issues and a danger.

Mr Doyle replied that it was because matters were back and forth with the Fire Officer about how issues would be addressed and whether works could be done while tenants remained. He repeated that the Appellant Landlord was waiting for instruction on whether to terminate or whether a solution existed that would allow tenants to remain.

Mr Martin put to Mr Doyle that minimum standards and maintenance are the Appellant Landlord's responsibility under the Act. Mr Doyle agreed. Mr Doyle repeated that the Appellant Landlord needed instruction and supporting proof to terminate tenancies and stand over that termination, and he was concerned that terminating without backing would fail. He again stated the delay was due to awaiting the Fire Officer's final instruction.

Mr Martin asked whether, if the tenants had been advised in January 2024, they might have been able to search for accommodation. Mr Doyle agreed they could have. Mr Doyle said the Appellant Landlord believed he was trying to keep tenants in place and work around them, and he accepted Mr Martin's point that tenants could have been told earlier, but said the Appellant Landlord did not understand the situation fully at that time

Evidence of the Respondent Tenant, Ms Kovacevic

Ms Kovacevic gave evidence that a fire safety audit was carried out in January 2024 and identified serious fire safety issues. She stated that the audit indicated that the upper floors might need to be evacuated if issues were not addressed. She said she was never informed about this at the time and therefore continued to live in the apartment and pay rent as normal for over a year. She said that during that period no one told her the building was unsafe and no works were carried out, and that she was served with a rent increase in December 2024.

Ms Kovacevic said she was only informed at the end of February 2025 that the building was unsafe and was shortly thereafter given about 10 days to leave. She described this as a shock due to the absence of warning. She stated that at the time she had just started a new job and was studying part time in the evenings. She said the requirement to find accommodation at short notice caused significant stress and disruption. She said she had no family in Ireland and was on her own. She said she missed classes and struggled to focus at work, and that she was under constant pressure trying to avoid homelessness.

Ms Kovacevic said that because of short notice she had to accept the first available option, and she described applying for over 120 apartments, and after approximately 2.5 months she obtained an apartment which she had to accept, at a significantly higher rent. She said she lost access to housing support because the new landlord would not accept HAP and that rent was far higher than previously.

The Tribunal asked if she received her deposit back, and she confirmed that she did.

The Tribunal put to Ms Kovacevic that her total claim was €11,967, broken down into headings, and

asked her to explain the basis of the first heading which sought a form of backdated housing cost recovery. The Chairperson referred to the calculation of 8 weeks at €93 per week and 44 weeks at €147 per week, totalling €7,212.

Ms Kovacevic explained that she was in receipt of HAP and that she made weekly contributions, initially €93 and later €147, and that these figures reflected her personal contributions. The Chairperson confirmed that these were her contributions over and above HAP. Ms Kovacevic said yes. She explained that she sought those contributions back because she was living in a place she was unaware was unsafe, and that if she had known she would have looked for alternative accommodation earlier.

Mr Martin supported that evidence by stating that the Respondent Tenant was not notified for that period and therefore lived unaware of serious safety issues.

The Chairperson then addressed the heading for the increased cost of alternative accommodation of €3,078 and asked how it was calculated. Mr Martin explained it was the increase in housing costs the Respondent Tenant was paying in her new accommodation compared to her prior housing cost, calculated over a period of 6 months. Mr Martin also stated that the Respondent Tenant could not avail of HAP at the new accommodation and gave evidence and submission as to the practical reality of that situation.

The Chairperson then addressed the medical costs of €170 and Mr Martin stated these were medical fees and costs during the period of stress, and referenced medical letters on file.

The Chairperson then addressed the relocation and upfront accommodation costs which were stated to be €1,507, being deposit and initial rent costs less the returned deposit. Mr Martin stated that those were additional costs the Respondent Tenant had to meet at short notice to secure accommodation.

The Chairperson asked whether that was the totality of the claim and Ms Kovacevic confirmed it was.

Closing Submission on Behalf of the Tenant

Mr Martin submitted that the crux of the case was a claim for redress arising from breach of landlord obligations to maintain the dwelling and to notify tenants about serious defects rendering the apartment unsafe and dangerous. He submitted that for approximately 12 months the Respondent Tenant could have been searching for alternative accommodation but was not notified. He submitted that the Respondent Tenant was then required to find accommodation quickly and suffered losses as a result. He submitted that, while the Fire Officer has responsibility for issuing a safety notice, the Appellant Landlord has responsibility to maintain and notify tenants when the premises is not safe, and that the Appellant Landlord's explanation that he was waiting for the Fire Officer did not displace that responsibility. He asked the Tribunal to uphold the Respondent

Tenant's ground of breach and to consider the redress requested. Ms Kovacevic confirmed she had nothing further to add.

6. Matters agreed between the parties:

1. That a Fire Safety Notice issued in February 2025.
2. That the tenant vacated on 20 April 2025.
3. That the deposit was returned.
4. That the rent was €793.00 per month.
5. That the Respondent Tenant did not overhold.

7. Findings and reasons:

Finding

The Respondent Tenant's claim, that the Appellant Landlord is in breach of his landlord obligations regarding the standard and maintenance of the dwelling, is upheld.

Reason

Section 12(1)(b) of the Act provides, in relevant part, that a landlord shall:

"carry out to—

i. the structure of the dwelling all such repairs as are, from time to time, necessary and ensure that the structure complies with any standards for houses for the time being prescribed under section 18 of the Housing (Miscellaneous Provisions) Act 1992, and

ii. the interior of the dwelling all such repairs and replacement of fittings as are, from time to time, necessary so that that interior and those fittings are maintained in, at least, the condition in which they were at the commencement of the tenancy and in compliance with any such standards for the time being prescribed".

Section 12(1)(b) of the Residential Tenancies Act 2004 obliges a landlord to maintain the dwelling in a proper state of structural repair and to ensure that it meets the minimum standards prescribed by law.

The Tribunal accepts, on the evidence, that a fire safety audit was carried out in January 2024 by Ryan & Associates, Fire Safety Consultants and Chartered Engineers, following an earlier fire incident in the building. The Tribunal accepts that this audit identified fire safety deficiencies at building level, including deficiencies relating to means of escape and the risk of fire spread within a mixed use building comprising a commercial premises at ground level and residential units above.

The Tribunal further accepts that the January 2024 audit was advisory in nature and did not prohibit occupation of the building or the dwelling. The Tribunal also accepts that the only statutory Fire Safety Notice prohibiting residential use of the upper floors of the building was issued by the Fire Officer on 21 February 2025 and took effect on 10 March 2025.

However, the Tribunal is satisfied on the evidence that the Appellant Landlord, through his agents, had notice from January 2024 that serious fire safety deficiencies affecting the residential upper floors had been identified. The Tribunal accepts the evidence of Mr Doyle that the Appellant Landlord engaged with the Fire Officer over a

period of time and sought to determine whether remedial works could be carried out while tenants remained in occupation. The Tribunal also accepts Mr Doyle's evidence that the Appellant Landlord was concerned about terminating tenancies without adequate justification, given the statutory restrictions on termination.

That said, the Tribunal accepts Mr Doyle's evidence, given in response to questions from the Tribunal and from the Respondent Tenant's representative, that tenants were not informed in January 2024 of the existence or contents of the fire safety audit, and that earlier notification could have enabled tenants to plan and seek alternative accommodation in advance of the statutory closure in March 2025.

The Tribunal is satisfied that, once serious fire safety deficiencies affecting means of escape and fire spread had been identified, the Appellant Landlord was required to take reasonable steps in discharge of his statutory obligations. In the circumstances of this case, those reasonable steps included timely communication with tenants about the existence and nature of the identified risks, particularly where those risks had the potential to lead to termination of occupation.

The Tribunal therefore finds that the failure to notify the Respondent Tenant in a timely manner of the serious fire safety deficiencies identified in January 2024 constituted a failure by the Appellant Landlord to act reasonably in maintaining the dwelling to the minimum standards required, and accordingly amounted to a breach of section 12(1)(b) of the Act.

Historic housing contributions

The Tribunal considered the Respondent Tenant's claim for recovery of housing contributions paid during the period February 2024 to February 2025. While the Tribunal accepts that the Respondent Tenant was not informed of the January 2024 audit during that period, it is not satisfied that the appropriate measure of compensable loss is a retrospective reimbursement of housing contributions paid while the Respondent Tenant remained in occupation and received the benefit of that occupation.

The Tribunal is not satisfied that the evidence supports treating those payments as loss, expense or damage, and this element of the claim is refused.

Increased cost of alternative accommodation

The Tribunal accepts that, following notification of the Fire Safety Notice in late February 2025, the Respondent Tenant was required to secure alternative accommodation in a constrained housing market and that she did so after a period of searching. The Tribunal accepts the evidence that the Respondent Tenant incurred an increased cost of accommodation relative to her prior housing cost, and that this increase was calculated over a defined period of six months.

The Tribunal is satisfied that this increased cost is causally connected to the Appellant Landlord's breach, in circumstances where earlier notification of the serious fire safety issues could reasonably have mitigated the abruptness and financial impact of the relocation. The Tribunal considers that an award corresponding to the six month differential is reasonable and proportionate.

Accordingly, the Tribunal awards the sum of €3,078 under this head.

General inconvenience

The Tribunal further accepts that the manner and timing in which the Respondent Tenant was required to vacate the dwelling caused disruption and inconvenience. While the Tribunal does not make findings of fact as to distress beyond what is necessary for redress, it is satisfied that a modest additional award is appropriate to reflect the inconvenience associated with an unanticipated and compressed relocation process.

The Tribunal awards the sum of €500 under this head.

The Tribunal has considered the remaining claimed heads of loss, including medical expenses and relocation costs. The Tribunal is not in a position to evaluate or make an award in respect of medical expenses or to establish a sufficient causal link between the Appellant Landlord's breach and the need for medical treatment. In relation to relocation costs, having regard to the awards already made in respect of the increased cost of alternative accommodation, the Tribunal makes no further award under this heading.

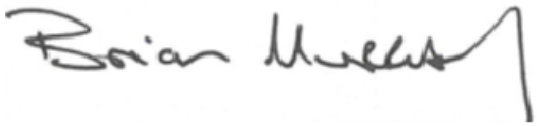
8. Determination:

Tribunal reference TR0001121

In the matter of Brian Lynch (Appellant Landlord) and Tanja Kovacevic (Respondent Tenant), the Tribunal, in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that in respect of the tenancy of the dwelling at Apartment 6, 226 Upper Salthill, Galway, H91PP2Y:

1. The Appellant Landlord shall pay the total sum of €3,578 to the Respondent Tenant within 28 days of the date of issue of the Order being damages for breach of the Appellant Landlord's obligations under Section 12(1)(b) of the Residential Tenancies Act 2004 in relation to the dwelling at Apartment 6, 226 Upper Salthill, Galway, H91PP2Y.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination.



Signed: _____

Brian Murray
Chairperson
For and on behalf of the Tribunal.