

Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Case Reference: TR0001238 / Case Reference: DR0005235

Applicant Tenant(s):	Barbara Hogan
Respondent Landlord(s):	Independent Trustee Company LTD
Address of rented dwelling:	Apartment 6 Riverhouse Apartments, New Quay, Clonmel, Tipperary, E91AX85
Tribunal:	Karen Ruddy (Chairperson) Peter Shanley, Healy Hynes
Venue:	Virtual
Date & time of hearing:	24/02/2026 at 14:30:00
Attendees:	For the Applicant Tenant: Barbara Hogan (Applicant Tenant) Nikita Dolan – tenant's daughter - representing the tenant For the Respondent Landlord: Ciaran Dunphy, South East Home Hunters Ltd DNG (Respondent Landlord's Representative) Also in Attendance: Recording Technician.

1. Background:

Mediation application

2. Documents submitted prior to the hearing included:

rtb case files

3. Documents submitted at the hearing included:

none

4. Procedure:

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

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 Tenant present would be invited to present her evidence first; that the Respondent Landlord's representative would be given an opportunity to cross examine the Applicant Tenant on that evidence; that the Respondent Landlord's representative would then give his evidence and similarly the Applicant Tenant could cross-examine the Respondent Landlord's representative on his 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.

The Tribunal set out to the parties the option available to them of reaching a mutually acceptable, private agreement. The offer to discuss settlement privately was not availed of. The affirmation of the parties and submission of their evidence subsequently followed.

5. Verbal Submissions:

The Applicant Tenant's evidence:

The Tribunal invited the Applicant Tenant (hereafter known as the Tenant) to submit her evidence in relation to her claims on which she had referred the case to the Tribunal, namely the validity of the rent review and the alleged landlord's breach of obligations in relation to standards and maintenance of the dwelling.

Standard and maintenance of dwelling

The tenant told the tribunal that the current landlord took over the tenancy in early 2024. She said that someone from DNG came to inspect in the dwelling and issues reported were mould, broken presses, broken shower, main window broken, sinks not working properly, water pressure, duct tape on boiler, no proper lights in hall. She said the landlord subsequently sent someone to do the painting, but they did not treat the mould, in July 2025. She said they had fixed the broken cupboard doors and had put in a new shower. However, the workman caused a leak, and they had to return to fix it, and this leak caused floor-boards in hall to rise. She said the sliding door in sitting room is broken and is letting in rain. She agreed that she had not informed the landlord that the mould has come back. She said while they replaced the electric shower, that the old boiler has still not been removed. She said the lights in hall were fixed and the sink taps were replaced. She complained that nothing has been done about the broken window. She said the maintenance man told them that the gas between the panes has gone, and that is why rain gets in. She referred to page 10 of case file 2 – which she said contained photographs of the condition of the dwelling.

The tenant said she considered it pointless to contact the landlord's agents again regarding the issues because they fail to do anything.

She said she has previously purchased mould-resistant paint with her own money and cleaned and repainted the affected areas twice since moving in, but the mould continues to return. She said that it is only since she has initiated a dispute process, that the landlord or their agents have carried out any repairs.

Validity of notice of rent review

The tenant's representative referred to RTB case file 2 Page 60 – which notes that the RTB guidelines indicate that service of rent review by email is not valid. She referred to Sec 22 part 2 of the Act and said the tenant received an email from Thomas Macukcas of DNG enclosing a Lease for €850 and the tenant signed it and returned it to DNG.

She said the tenant then received another contract for €1400 instead of €850 but the tenant did not sign it. She said they rang Threshold who gave them advice and Thomas asked them where they had gotten that information. After a few hours he came back and told them that he was confident that the notice had been posted and that they were going ahead with the rent review. She said that the Tenant then filed the dispute.

She referred to page 36 of case file 1 which contains an email thread between them and Thomas and on page 6 can see if there is letter from the RTB explaining guidelines on rent reviews. She said that Threshold informed them that the notice was invalid and they asked the landlord for another copy of the Notice but they refused as they said they had already sent it by post.

She said the three properties used in comparison of dwellings were not the same size, type, and condition of the subject dwelling. She referred to the landlord's agents notice which reflected that the comparables were "better than subject" dwelling. She submitted that the subject dwelling is a 2 bed, and 1 bathroom, and is in bad condition as stated in the "standard and maintenance of dwelling" box. She said it lacks modern facilities. She said the three properties they referenced were also not on daft.ie or rent.ie when she searched for them so it is unclear how recent these ads were.

The properties listed in Part E were as follows -

Dwelling 1: 40 Glenoaks Drive, Clonmel, Clonmel, Co. Tipperary House 3 Bed House: €1,900.

Dwelling 2: 9 Riverhouse, Clonmel, Co Tipperary. 2 Bed Apartment: €1,300

Dwelling 3: 1 The Courtyard 15 O Neill Street Clonmel Co Tipperary. 2 Bed Town house: €1,400.

She said the two properties listed in the ads (attached to bottom of rent review) did not match the properties they listed in Part E, except for the 3 bed 3 bath semi-detached house for €1900 euro. The ads given were as follows -

Willow Park - A 4 bed, 2 bath house. Recently refurbished with a large south facing back garden (1700 euros) and

40 Glenoaks - A 3 bed, 3 bath semi-detached house, with a large garden, and a pergola to the rear of the property (1900 euros).

She submitted that comparables are not appropriate as 40 Glenoaks is a 3 bed house with 3 bathrooms. One the Courtyard is a house, no evidence of condition or features. She said they had looked for ads and could not find the ads online.

She submitted that the precedent case TR0120 -004172 – Barry O'Neill tenant, RTB decision – had found a notice of rent review to be invalid where the comparable offered differed materially and she said therefore the rent review in this case should be deemed invalid.

In relation to market rent she said that she had reviewed the proposed increase in light of daft rent reports from Q1 and 2 2025, case file 2 page 66, and that in Q1 the applicable average market rent was €1151, and Q2 was €1143. She said apartments typically rent for less than houses and that the proposed rent of €1400 is markedly above these levels.

She submitted that the proposed rent is not in line with market rent at the date of the rent review. She then added that the landlord's conduct was unprofessional and inappropriate as they had tried to get her to accept the rent increase by tying it to her current rent arrears payment plan. She referred to Case file 2 page 68 which contained an email from the landlord's agent to the tenant regarding her rent- arrears payment plan. And said that the landlord's agent had tried to enforce the new rent even at a time when it had been challenged by the tenant.

In her Closing submission she submitted that there was no evidence of postage, and the evidence by the landlord's representative was not sufficient and not reliable, and evidence of postage was not verified by the 3rd party. She submitted that market rents are below the asking price here of €1400 per month. She said the dwelling is in sub-standard condition and so the Rent Review is invalid.

She said the mould should be properly treated, cupboards are damp and are falling apart again and need to be replaced, and the floorboards need to be investigated.

The Landlord's evidence

The landlord's representative stated that a rent review was carried out in May 2025, and that the comparables included apartment in the same development, that the tenant engaged with the rent review. He agreed that one comparable is a 3-bed house and one is a two bed apartment. He submitted that a superior comparable is acceptable as long as the rent is similarly superior. He referred to 40 Glenoaks – approximately 1200 sq. ft. is it similar size type and character. He said he based Comparables on location, demand and size.

He said the subject property is 85 sq. mts, condition is reasonable, and that 9 Riverhouse is 2 bed apartment rented for €1300, it was rented 12 months previously, not within 28 days of the rent review. He was reminded that Section 22 – 2c of the Act requires that ads for comparables must have been placed within a period of 4 weeks of the rent review, however

he maintained that it was reasonable to go back 12 months to find a comparable property in the same area as the dwelling.

He then stated that 40 Glenoaks was advertised for rent on the 1st May 2025 but 1 The Courtyard was advertised on 1st March 2025, which was also outside of the permitted time period. He said that €1400 is a fair market rent for this dwelling.

Regarding service of the rent review he said he knows that it is office procedure that all documents are sent out by post and that the tenant had engaged with the email version. He said his only involvement was that he had signed the document and placed it into an envelope. He said they do not use registered post for rent reviews as it is too expensive. He said they trust the postal system. He said Thomas has asked him whether they should send a copy by post but he said they shouldn't as Thomas was confident that he had sent it by post.

He refuted that they were trying to enforce the rent review while a challenge had been lodged. He said it was just co-incidence that the Tenant was also paying arrears and the letter included arrears from the rent review but they did not enforce it during the dispute.

In relation to maintenance of the dwelling, he said it was his opinion that the mould issue is tenant caused, by failure to ventilate properly and not heating dwelling properly. It is seasonal. He said he thinks it was Leanne Corcoran from DNG who inspected the dwelling in 2024 but he has no record of a list of problems. He said the Landlord did remedial works, new shower, mould treatment, anti-fungal paint was used, electrical repairs and plumbing in 2025. He said he has not been notified of any issue with window and presses and there are no notes on his file and he does not know if they were ever informed about the issues. He agreed that he had never inspected the dwelling but said his colleague Thomas inspected it on the 20th June 2025 and had provided photographs. He said a broken window was not on Thomas's list. He said the Landlord and management company have discussed the window but tenant was not informed of this.

Cross -examination –

He was asked by the tenants representative whether he was aware of RTB guidelines on situations where there is no choice or lack of supply at the time of the rent review and that the guidelines provide that comparable properties can be nationwide, and he maintained that his approach of using old rental ads for properties from the locality was more appropriate.

In his Closing submissions he submitted that the rent review was undertaken in good faith and was based on prevailing market conditions, that the notice was sent by post and by email. He submitted that as the Tenant engaged with it and challenged it, that the Tenant is not prejudiced by any defect in it.

6. Matters agreed between the parties:

The following matters were agreed by the parties -

1. The address of the dwelling is Apartment 6, Riverhouse Apartments, New Quay, Clonmel, Tipperary, E91AX85.
2. **Tenancy commencement:** 29/10/2021 and the rent is payable monthly in advance on the 1st of the month.
3. The parties confirmed that the current rent was €850 per month, and that a deposit of €850 was paid by the Tenant.
4. It was confirmed that a rent review notice had been served via email on 2 May 2025 seeking to increase the rent to €1,400 per month as and from 1 August 2025.

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 rent review served on the Applicant tenant dated 2 May 2025 is invalid.

Reason:

The Tribunal notes Part 3 of the Residential Tenancies Act 2004, as amended, (hereafter referred to as 'the Act') which sets out the circumstances in which rent can be increased and the provisions around the setting of a new rent.

Section 19 of the Act prohibits the setting of the rent above the amount of the market rent for that tenancy at that time.

Under Part 3 of the Act, certain locations within the country were designated to be in Rent Pressure Zones which attracted a different suite of provisions around rent reviews. The Tribunal notes that the subject dwelling is situated in a location which was designated a Rent Pressure Zone in June 2025. Accordingly, the RPZ provisions do not apply in this case as the dwelling was not in a Rent Pressure Zone in May 2025 the date on which the rent review notice was served.

In accordance with Section 20 of the Act, in the case of a dwelling which is not located in a RPZ, a landlord is entitled to increase the rent every 12 months during the tenancy.

Section 22 (2) sets out the provisions for notifying a tenant of a new rent as follows –

22.— (1) *The setting of a rent (the “new rent”) pursuant to a review of the rent under a tenancy of a dwelling and which is otherwise lawful under this Part shall not have effect unless and until the condition specified in subsection (2) is satisfied.*

(2) That condition is that, at least 90 days before the date from which the new rent is to have effect, a notice in the prescribed form is served by the landlord on the tenant stating the amount of the new rent and the date from which it is to have effect and the matters specified in subsection (2A),

(2A) The notice referred to in subsection (2) shall—

- a. without prejudice to subsection (2) and pursuant to the condition referred to in that subsection, state the amount of the new rent and the date from which it is to have effect,*
- b. include a statement that a dispute in relation to the setting of a rent pursuant to a review of the rent under a tenancy must be referred to the Board under Part 6 before—*
 - (i) the date stated in the notice as the date from which that rent is to have effect, or*
 - (ii) the expiry of 28 days from the receipt by the tenant of that notice, whichever is the later,*
- c. include a statement by the landlord that in his or her opinion the new rent is not greater than the market rent, having regard to— (i) the other terms of the tenancy, and*
 - (ii) letting values of dwellings—*
 - (I) of a similar size, type and character to the dwelling that is the subject of the tenancy, and*
 - (II) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,*
- d. specify, for the purposes of paragraph (c), and without prejudice to the generality of that paragraph, the amount of rent sought for 3 dwellings—*
 - (i) of a similar size, type and character to the dwelling that is the subject of the tenancy, and*
 - (ii) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,*
- e. include the date on which the notice is signed.*

Section 2 C provides as follows:-

(2C) In this section "amount of rent sought" means the amount of rent specified for the letting of a dwelling in an advertisement the date of which falls within the period of 4 weeks immediately preceding the date on which the notice referred to in *subsection (2)* is served.

The rent review notice gave a notice period of at least 90 days, being served on 2 May 2025 with an effective date of 1 August 2025 (90 days).

The Tribunal has considered the rent review notice served in this case and the rent review notice included the statement that in the Landlord's opinion the rent being sought was not greater than the market rent having regard to the other terms of the tenancy and the letting values of similar dwellings in terms of size, location, type and character. However, having reviewed that comparable properties referenced by the Landlord and the included details of three dwellings which were purported to be available to let at the time of service of the rent review notice, and were purportedly similar in terms of size, type, character and location, the Tribunal finds that two of the three property ads provided were not placed within the 4 weeks prior to service of the rent review as required under the legislation. The landlord's agent admitted in his evidence that one ad had been placed 12 months previously and another had been placed on the 1st March 2025, which were both long before the rent review was served on the 2nd May 2025.

While the Landlord's representative submitted that the tenant is not prejudiced by any defect in the notice on account of the dates the ads were placed, the this is not a relevant consideration for the Tribunal and in any event, the tribunal disagrees and finds that significant prejudice has been caused by the failure on the part of the landlord to provide ads which are within the time period allowed under the legislation. The tenant's representative gave evidence of having searched in vain for the ads in order to allow the tenant to compare the dwellings in terms of size, location, type and character, however this was not possible because of the antiquity of the ads relied on by the landlord. The tribunal accepts the tenants submission that it is recommended, where no similar properties are being advertised as available for rent in the same locality as the dwelling, that the landlord rely on ads for similar properties in other locations rather than relying on historic ads in the same location. For this reason, the tribunal finds that the rent review of the 2nd May 2025 is invalid.

The Tribunal is satisfied that the rent review notice was not validly constituted as the requirements of section 22 2 c of the Residential tenancies act 2004 have not been met. The notice of rent review is therefore invalid.

Having so found, there is no need for the Tribunal to consider any of the other issues raised by the tenant regarding the validity of the Notice of rent review.

Finding 7.2

The Tribunal finds that the Tenant's claim for breach of Landlord's breach of obligations in terms of standards and maintenance is not upheld.

Reason:

The Act sets out a landlord's obligation regarding standards and maintenance as follows -

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

(b) subject to subsection (2), 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,

The Tribunal accepts the evidence of the tenant that she notified the landlord's agents DNG, of a list of issues that required repair after the landlord purchased the dwelling in March 2024. While there appears to have been some delay in carrying out the works, the tenant agreed that the landlord carried out extensive works around June/July 2025 which entailed repair and replacement of cupboards, shower, plumbing, lights, painting and redecoration. The tenant gave evidence that new issues have arisen since the works were carried out in 2025, being a leak causing floor boards to warp, mould reoccurring and the boiler still not having been removed. She also stated that the broken window has still not been addressed. She accepted that she had not raised any of these new issues with the landlord because she says she is fed up, as the landlord fails to do anything about the issues. The Tribunal accepts therefore that the tenant has failed to notify the landlord or its agents regarding these new issues of which she now complains. It is not appropriate for a tenant to allege breach of landlord obligations in circumstances where the landlord has not been informed of the issues that require attention and has not been given an opportunity to fix them. The tribunal notes that the exception to this is the broken window which may be more of a management company issue and it is for the landlord to liaise with the management company regarding same. The tribunal notes that the tenant can seek updates from the landlord/management company in regards to progress in having the window repaired.

The tribunal therefore accepts the Landlord's representative's evidence that the Tenant had failed to notify them of any of the new issues of which she was now complaining. It is patent that a landlord cannot be in breach of its obligations if it is unaware of the alleged breach.

8. Determination:

Tribunal reference TR0001238

In the matter of Barbara Hogan (Applicant Tenant) and Independent Trustee Company Ltd. (Respondent Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004 as amended, determines that:

1. The notice of rent review with a date of service of 2 May 2025 served by the Respondent Landlord on the Applicant Tenant, with an effective date of 1 August 2025 in respect of the tenancy of the dwelling at Apartment 6, Riverhouse Apartments, New Quay, Clonmel, Tipperary, E91AX85, is invalid.
2. The Applicant Tenant's claim for breach of landlord's obligations in respect of standard and maintenance of the dwelling at Apartment 6, Riverhouse Apartments, New Quay, Clonmel, Tipperary, E91AX85, is not upheld.

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

A handwritten signature in blue ink, reading "Karen Ruddy". The signature is stylized, with the first name "Karen" written in a cursive script and the last name "Ruddy" in a more blocky, cursive style. A large, horizontal, oval-shaped flourish is drawn below the name "Ruddy".

Karen Ruddy

Chairperson

For and on behalf of the Tribunal.