**Residential Tenancies Board**

**RESIDENTIAL TENANCIES ACT 2004**

## Report of Case Reference: DR0003483 - TR0001436

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| **Applicant Tenant(s):** | Marina Molotoka, Ruslana Karmazina |
| **Respondent Landlord(s):** | Siobhan McAuley, Steven McAuley |
| **Address of rented dwelling:** | 173A Balrothery Estate, Tallaght, Dublin 24, D24YAA4 |
| **Tribunal:** | Dervla Quinn (Chairperson), Finian Matthews, Ann Leech |
| **Venue:** | Virtual |
| **Date & time of hearing:** | 10/07/2026 at 10:30:00 |
| **Attendees:** | For the Applicant Tenants:<br>Marina Molotoka, (Applicant Tenant).<br>Ruslana Karmazina (on 10 July 2026)<br>For the Respondent Landlords:<br>Siobhan McAuley, Steven McAuley (Respondent Landlords)<br>Oonagh Foy, Landlords' solicitor,<br>Eoin Deeney BL, for Respondent Landlords. |

### 1. Background:

On 04/09/2025 the Tenants made an application to the Residential Tenancies Board ("the RTB"). The matter was referred to a Mediation which took place on 08/01/2026.

Subsequently the Tenants submitted an Appeal on 27/01/2026. This was approved by the Board.

The RTB constituted a Tenancy Tribunal and appointed Dervla Quinn, Finian Matthews, Anne Leech as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Dervla Quinn to be the chairperson of the Tribunal ("the Chairperson"). 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 10/07/2026 the Tribunal convened a hearing.

### 2. Documents submitted prior to the hearing included:

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 Applicant Tenant present confirmed that she was present on behalf of both herself and Ms Karmazina and that she was authorised to represent Ms Karmazina to 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. In particular, she outlined 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 applied for the Tribunal hearing (the Applicant Tenants) would be invited to present their case first, that there would be an opportunity for cross-examination by the Respondent Landlords, that the Respondent Landlords would then be invited to present their case, and that there would then be an opportunity for crossexamination by the Applicant Tenants. The Chairperson explained that following this, both parties would be given an opportunity to make a final submission. She reminded the parties that the hearing was a *de novo* hearing.

The Chairperson stressed that all evidence would be taken on affirmation and be recorded by the official stenographer present and she 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. Prior to commencing evidence, the Chairperson reminded the parties that it was open to them to reach an agreement. The Chairperson advised the parties of the benefits of reaching an agreement and advised them that any agreement reached would be capable of being confidential while retaining the enforceability of an order of the RTB. The Chairperson indicated that, if the parties wished to discuss matters among themselves, the Tribunal would rise and allow them to discuss matters. The parties did not avail of the opportunity to reach an agreement.

All parties intending to give evidence were affirmed. The Tribunal asked the parties what matters could be noted as agreed. The matters referred to below were noted as agreed.

**5. Verbal Submissions:**

**Applicant Tenants’ case**:

Ms Molotoka, speaking on behalf of both Tenants and with the assistance of the RTB appointed interpreter, began by raising objections to the late submission by the Landlord of TR case file 4. She stated that she had only received the case file just before the hearing and had not had a reasonable time to consider the contents of the case file. The Tribunal noted that they had also just received the case file and that it had been submitted by email to the RTB offices on 4 June 2026 being 4 days before the hearing on 8 May 2026. The Tribunal noted that the case file contained documents that were included in earlier case files, however the Tenant was invited to highlight to the Tribunal during the course of her evidence if at any point she believed she was at a disadvantage as a result of the late submission of the case file.

The Tenant began her evidence by referring to the historical facts of the case and in particular to the service of an earlier, incorrect notice of termination in 2024. She stated that she was concerned about the breach of landlords’ obligations, that the previous notice had been withdrawn and she had been told that they could continue to live there. She said that she had been living in the dwelling since 15 May 2017 with her partner who died in 2021, that until his death she needed no assistance with rent from HAP, but that after his death it was difficult for her financially so she had applied for HAP support. She stated that before receiving the formal Notice of Termination, she received a communication that she should leave and hand back the keys and that she had replied that she needed a valid notice of termination. She stated that the notice referred to her partner who had died 2 years previously, that she was still dealing with the loss of her partner and was now the sole provider for her child. She

stated that the notice could not just be issued in isolation, that events began long before the notice was served.

The Tribunal asked the Tenant to clarify why she was stating that the notice of termination of 6 August 2025 was invalid. The Tenant stated that she always paid her rent and complied with her obligations, that she had 90 days to dispute the notice and that the Landlords' solicitor was incorrect to state that she was out of time. She stated that she had got advice from Threshold that the notice was not in the prescribed format, that they had sent her an email dated 20 January 2026. The Tribunal noted that there was no email from Threshold in the papers submitted to the RTB. The Tribunal questioned the Tenant on the date on which she had received the Notice of Termination. The Tenant replied that she believed it was received by her on 7 or 8 August 2025 but that she could not be sure. She referred to the letter received by her from the RTB dated 25 August 2025 which stated that they had received the notice on 13 August 2025 (page 16 of Mediation case file 2). She queried whether the notice had been copied to the RTB on the same date that it was served on her. She stated that there were practical consequences, that if the Notice was valid and Threshold confirmed this, she could get greater access to homeless supports to include an increase of 50% from the normal HAP support plus help with the deposit. She stated that she was a single parent and without a valid notice from the Landlord she could not get support.

The Tenant then addressed the issue of breach of Landlord obligations. She stated that the heating downstairs was a problem all the time, that the system did not work properly, that the boiler was not working and she was using a lot of kerosene which she could not afford, that no professional investigation had been carried out into the source of the problem, that she had been given 3 portable electric heaters which was a temporary solution, that the Landlords had not complied with their obligations to maintain the property in a proper condition, that she was spending a lot of money on heating, that there was no insulation and that she was heating the street. The Tribunal asked the Tenant did she have an amount which she was claiming she had spent on extra heating. The Tenant replied that she was claiming €400 a month for September to April for at least the last 5 years.

The Tenant then addressed the issue of the validity of the rent review notices. She submitted that it was wrong to serve them because of the problems with the heating. She submitted that the rent review was in fact linked to the intention of the Landlords to sell the property. She stated that they had served a rent review which was to come into effect on 1 August 2025, just before they served the notice of termination. She challenged why the Landlords would increase the rent if they were intending to sell. She expressed sympathy for the Landlords' financial difficulties and their medical circumstances, that she also had difficulties and was living under the threat of losing her house which was a stress for her family. She challenged whether the rent review was reasonable in light of the heating issues and asked that the Tribunal grant the relief set out in her submissions. She confirmed that her reason for challenging the rent sought in the review was based on the heating issues and that in her opinion the rent should have stayed at the rate of €1600 as at the start of the letting in 2017, that the house was very old and was never properly maintained and that it was an old heating system.

**Respondent Landlords' questions**.

Mr Deeney on behalf of the Landlord, asked the Tenant on what date had she received advice from Threshold, that if it was 20 January 2025 was she still taking advice from Threshold. The Tenant confirmed that she was taking advice from Threshold. The Tenant confirmed to Mr Deeney that she was raising an issue with the heating going back 5 years. She also stated that she had raised issues regarding the rent review with the Landlord prior to lodging the complaint with the RTB on 4 September 2025.

**Respondent Landlords' case**:

Mr Deeney addressed the Tribunal concerning the date of receipt of the Notice of Termination by the Tenant. He referred to a postage receipt which he stated showed that the Tenant had received the Notice of Termination on 6 September 2025. The Tribunal noted that it was the Tenant's evidence that she had received the Notice of Termination on 7 or 8 September 2025 but that she could not be sure. Mr Deeney read out the words of the Tenant in her handwritten appeal for a Tribunal hearing. He stated that the word "retaliatory" was not clear. He stated that the Landlord was relying on section 34 of the Act and the statutory declaration signed by the Landlords and that the Tenant had confirmed receipt of the statutory declaration.

In recognition of the importance of the issue of the service of the Notice of Termination, Ms Foy, solicitor for the Landlord, gave her affirmation before giving evidence to the Tribunal of her emailing the Notice of Termination to the RTB of 6 September 2025 at 10.35 am and that she had received an acknowledgment from the RTB and she had also sent the Notice of Termination to both the RTB and to the Tenant by registered post on the same day being 6 September 2025.

Mr Deeney then moved to the issue of the alleged breach of Landlord's obligation in relation to the heating. He stated that the claim of the Tenant going back 5 years was out of time, that there were issues raised today for the first time. He said that the Landlord had addressed the issue of the heating and had provided alternative heating in the form of 3 electric heaters. The Tenant argued that the heaters were a temporary measure and were very expensive to use and that the heating should work all around the house. The Tenant stated that she was not aware of how to control the heating and she asked why she should have to deal with the issue. Mr Deeney stated that the Landlords were in compliance with their obligations under the 2019 Housing Regulations.

At this stage in the hearing, as it was apparent that the matter would not conclude that day, the Tribunal resolved to adjourn the matter to a second date in light of the time required translating everything to the Tenant, the importance of the Tenant's clear understanding of what was being said and the burden placed on Mr Deeney to pause at regular intervals to allow for translation. Mr Deeney stated that his clients were under financial pressure and wished to deal with the matter as promptly as possible. The Tribunal informed the parties that the hearing would reconvene at the earliest possible date and thanked the parties for their patience and courtesy.

On reconvening the hearing on 10 July 2026, the parties were reminded that they remained under affirmation. Ruslana Karmazina, the second named Applicant Tenant, was affirmed as she had not been in attendance at the previous meeting. The RTB appointed interpreter was also affirmed.

The Chair noted that the Tenant had presented her evidence to the Tribunal on 8 June 2026. She noted that the disputed matters concerned the issue of the validity of the rent review, the Tenants' claim of penalisation by reason of the issue of the notice of termination by the Landlord, the bona fides of the Landlords' intention to sell and the validity of the notice of termination dated 6 August 2025. The Landlord's representative, Mr Deeney, was invited to continue with the presentation of the Landlords' case subject to pauses to allow for translation.

Mr Deeney began by addressing the issue of the validity of the Rent Review Notice. The Tenants challenge to the validity was on the grounds of the heating issues and their bearing on the amount of rent that should be sought by the Landlords. The rent review dated 1 April 2025 sought to increase the rent from €1822 to €1937 payable from 1 August 2025. It was confirmed that the Tenants were paying this amount of rent and no arrears were owing. Mr Deeney stated that the Tenants were barred from challenging the rent reviews as under the Act such a challenge must take place within 90 days. He stated that the rent reviews had all been carried out in accordance with the regulations, using the prescribed form and the RPZ calculator on the RTB website and he referred the Tribunal to the paper work submitted.

Regarding the issue of the heating, Mr Deeney stated that the Landlords were in compliance with the 2019 Housing Regulations. He stated that the Landlord had supplied 3 radiators the day after being informed of the heating problem by the agents. He stated that the Tenant had not made an issue of this on the last day of the hearing and that it was accepted that the heaters were working and were powerful and could be controlled by a mobile phone. He stated that the heaters were of a very good quality and a high standard and in this regard he referred to Section 6(1) of the 2019 Housing Regulations. The Tribunal asked and it was confirmed that the heaters were plug in heaters, but that the Tenants had not raised an issue with this, that had they raised an issue it would have been addressed.

Mr and Mrs McCauley then gave evidence as to their personal circumstances, including their financial positions and Mr McCauley's health. They stated that these factors were the reason for their decision to sell which was bona fide and they referred to correspondence submitted in support of their evidence. They stated that they had no malice towards the Tenants who were lovely people but that their financial situation was dire. Mr McCauley said that, as with the Tenants, their bills were also going up.

**Applicant Tenants' questions**.

The Tenant questioned the Landlords' evidence regarding the installation of the heaters. It was confirmed that they were plug in and were delivered by the Landlord to the Tenants by putting them in the hall as there was an issue with the radiators on the ground floor. The Tenant stated that she had received advice from Threshold that this was not in compliance with the Regulations that the radiators were never fixed and had not worked from the start of the letting in 2017.

The Tenant asked how could the Landlord increase the rent on foot of three comparable properties set out in the notice when those three properties were in very good condition. The Landlords' reply was that the Dwelling was in good condition and was built in 2008.

The Tenants asked where was the proof that they had accepted the heaters. They claimed that the increase in electricity had meant that they could not use the heaters and that they had brought cheaper heaters to use. The Landlords stated that they did not know that the Tenants were unhappy with the radiators and that the Tenants had only raised the issue after they had received the first notice of termination. The Tenants stated that the problem had been there since the start of the letting in 2017.

The Tribunal asked the Landlord why could the heating not have been fixed. Mr McCauley stated that the problem was only with the downstairs heating, that it would require major work to repair pipes which work they could not afford to do as a result of their personal situation.

**Closing statements**

Ms Molotoka stated that the first issue was the breach of landlord obligations, that they had not had a functioning heating system for 9 years and that they had reported this many times to the Landlords. She stated that they had independent clarification from Threshold that this was in breach of the Housing Regulations. She said that they wished to be given compensation for the increased electricity usage of approximately €84 per month or €506 per year since 2017. She stated that they wanted to be reimbursed for the rent they had paid since 2017, that based on the condition of the Dwelling it should have remained at €1600 per month, that it was now €1937 per month. She stated that the Notice of Termination was invalid based on the advice from Threshold.

Mr Deeney stated that the Landlords were seeking to uphold the Notice of Termination, that the earlier notice was not being relied upon, that the Landlord had addressed the Tribunal on the issue of the service, that the rent review was carried out within the rules set down by the RTB. He submitted that they had used the RPZ calculator and the prescribed form and that the challenge was out of time as it was more than 90 days as set out in the 2004 Act He stated that it was unfortunate that the

Landlords were in financial difficulty, that they have tried their best to meet the claims of the Tenants and to satisfy the Tribunal.

The Chair thanked the parties for the manner in which they had given their evidence and responded to the questions put to them and for their co-operation with arrangements for the translation of the evidence which had been challenging to both parties. The parties confirmed that they were satisfied that they had said what they wished to say to the Tribunal. The Tenants were asked and confirmed that they were satisfied that they had understood the proceedings. The Hearing was closed.

**6. Matters agreed between the parties:**

The parties agreed that the address of the dwelling is 173A Balrothery Estate, Dublin 24, D24 YAA4; that the tenancy commenced in 2017; that a deposit of €1600 was paid to the Landlords and is retained by the Landlords, and that the Applicant Tenants remain in occupation of the dwelling.

**7. Findings and reasons:**

Having considered all of the documentation before it and having considered the evidence presented to it by the parties, the Tribunal's findings and reasons therefor are set out hereunder.

**1. Finding**.

The Tribunal determines that the Notice of Termination, dated 6 August 2025, in respect of the tenancy between the parties concerning the dwelling at 173A Balrothery Estate, Dublin 24, D24 YAA4, is valid. The Tribunal further determines that the Applicant Tenants, together with all other persons occupying the dwelling, shall vacate and deliver up vacant possession of the dwelling within 56 days of the date of issue of the Board's Determination Order in this matter.

**Reasons for findings.**

**Notice Period**

The tenancy commenced in 2017 and had therefore subsisted for more than eight years at the date of service of the Notice of Termination.

The notice was served on 6 August 2025. In accordance with section 62 of the Residential Tenancies Act 2004 (as amended), the notice period commenced on 7 August 2025, being the day following the date of service. The termination date specified in the Notice of Termination was 13 April 2026. The period between 7 August 2025 and 13 April 2026 (inclusive) is 249 days.

Pursuant to section 66 of the Act, the statutory minimum notice period applicable to a tenancy of this duration is 224 days. The notice afforded in this case exceeded that statutory minimum. Section 65(3) of the Act expressly permits a landlord to provide a notice period longer than the minimum period prescribed. Accordingly, the Tribunal is satisfied that the Notice of Termination provided a legally sufficient period of notice.

**Service of the Notice of Termination**

Section 39A of the Residential Tenancies Act 2004 (as amended) requires a landlord to furnish a copy of a Notice of Termination to the Residential Tenancies Board on the same day that the notice is served on the tenant.

The Tribunal heard direct oral evidence from Ms Foy, solicitor for the Landlords, who affirmed that on 6 August 2025 she posted the Notice of Termination and accompanying statutory declaration both to the Applicant Tenants and to the RTB. Her evidence was given first-hand, was clear and consistent, and was not challenged or contradicted by any evidence adduced by the Applicant Tenants.

The Tribunal therefore accepts that the Notice of Termination and accompanying declaration were served upon both the Applicant Tenants and the RTB on 6 August 2025, thereby satisfying the requirements of section 39A of the Act.

***Argutinski v Residential Tenancies Board*** **[2026] IEHC 225**

The Tribunal has considered the judgment of Argutinski v Residential Tenancies Board in reaching its determination.

The Tribunal considers three matters to be of particular relevance.

First, the Argutunski proceedings concluded with the High Court quashing the relevant Tribunal's determination by consent of the RTB. In those circumstances, the observations contained in the judgment concerning service would arguably appear to be properly regarded as persuasive rather than a binding authority.

Secondly, the comments of the High Court in respect of service appear to have been made obiter dicta. The central issue before the High Court concerned the identity and authority of the person who signed the Notice of Termination, rather than the legal principles governing the date upon which service is affected.

Thirdly, and most significantly, it appears to the Tribunal that the High Court was not addressed on the operation and effect of section 64 of the Residential Tenancies Act 2004. The judgment contains no substantive consideration of that provision. Instead, the observations concerning service appear to rely on a reference to section 25 of the Interpretation Act 2005.

However, section 4 of the Interpretation Act 2005 expressly provides that the interpretative provisions contained in that Act apply only insofar as a contrary intention does not appear in the enactment under consideration.

Section 4 of the 2005 Act provides:

"A provision of this Act applies to an enactment except in so far as the contrary intention appears in this Act, in the enactment itself or, where relevant, in the Act under which the enactment is made."

The Tribunal considers that section 64 of the Residential Tenancies Act 2004 demonstrates such a contrary legislative intention. Section 64 of the Residential Tenancies Act provides:

"(1) For the avoidance of doubt, the specification in a notice of termination of a date as being its date of service does not comply with section 62(1)(c) if any relevant step in the service of that notice remains untaken on that date.

(2) A relevant step in the service of a notice remains untaken for the purposes of subsection (1) if any of the steps that are within the power or control of the landlord or tenant or agent (as appropriate) to take for the purpose of effecting such service remains untaken."

In the Tribunal's view, the language of section 64 is clear. The section directs attention to whether every step within the landlord's control necessary to effect service has been completed on the date specified as the date of service. Where the landlord has completed all acts within his or her control by posting the Notice of Termination in accordance with the Act, no further step remains untaken for the purposes of section 64.

This interpretation is reinforced by the structure of the Act as a whole. Where the Act intended legal consequences to flow from actual receipt of a document, it expressly employed the phrase "date of receipt", including in s.80 and s.87 of the 2004 Act which deliberately uses a different expression, “the date of receipt”, when determining the limitation period to refer a dispute to the RTB concerning a notice of termination and remedial action taken by a party. Also in section 22(3), concerning the time

frame to challenge rent reviews this is stated to be before “the expiry of 28 days from the receipt by the tenant of that notice”. By contrast, sections governing the service of Notices of Termination employ the distinct expression "date of service". The Tribunal considers that these expressions were deliberately chosen and must be given different meanings. It is a well-established principle of statutory interpretation that where the legislature employs different language in different provisions, it is presumed to have intended different legal consequences.

The Tribunal also notes that the methods of service prescribed by section 6 of the Act do not require service by registered post or any method requiring proof of delivery. That omission is significant. Had it been intended for service to depend upon actual receipt by the recipient, it could readily have required a method of service providing confirmation of delivery, such as registered post. It did not do so. Accordingly, the Tribunal concludes that where a Notice of Termination is served by ordinary post in accordance with the Residential Tenancies Act 2004 (as amended), the relevant date of service is the date upon which the notice is posted, provided that all steps within the landlord's control necessary to effect service have been completed on that date.

For those reasons, the Tribunal is satisfied that the Notice of Termination in the present case was validly served on 6 August 2025 and complies with the requirements of the Residential Tenancies Act 2004 (as amended).

**Grounds for Termination of the Tenancy**

As at the date of service of the Notice of Termination, the Tenants had been in continuous occupation of the dwelling for a period exceeding six months and had accordingly acquired the protections of a Part 4 tenancy under the Residential Tenancies Act 2004 (as amended) ("the Act"). In accordance with Part 4 of the Act, a tenant who has been in continuous occupation of a dwelling for more than six months is entitled to remain in occupation for the duration of the relevant Part 4 tenancy, unless the tenancy is validly terminated on one or more of the statutory grounds prescribed by the Act. In the present case, the applicable Part 4 tenancy was one carrying a maximum duration of six years, as the tenancy commenced after 24 December 2016 and before 11 June 2022.

Section 34 of the Act provides that a landlord may terminate a Part 4 tenancy only on one or more of the grounds specified in the Table to that section, provided that the Notice of Termination complies with the requirements of the Act, including the specification of the ground relied upon and the provision of the requisite statutory notice period. In the present case, the Landlords relied upon Ground 3 of the Table to section 34, namely their intention to enter into an enforceable agreement for the transfer to another, for full consideration, of the whole of their interest in the dwelling or the property containing the dwelling within nine months of the expiry of the notice period.

The Tribunal accepts the evidence adduced by the Landlords concerning their financial circumstances and health difficulties as credible and consistent with their stated intention to sell the dwelling. The Tribunal is satisfied that the Landlords had formed a genuine intention to sell when they first served a Notice of Termination on 28 May 2024. While the Landlords do not seek to rely upon that earlier notice in these proceedings, it provides relevant contemporaneous evidence of the existence and continuity of their intention to sell. The Landlords instead rely upon the subsequent Notice of Termination dated 6 August 2025. In support of that position, the Landlords produced correspondence from financial institutions which corroborates their financial circumstances and supports the genuineness of their intention to sell.

**Compliance with Section 62**

The Tribunal is satisfied that the Notice of Termination otherwise complies with the mandatory requirements of section 62 of the Act. Section 62 provides that, in order to be valid, a Notice of Termination must:

(a) be in writing;

(b) be signed by the landlord or his or her authorised agent or, as appropriate, the tenant;

(c) specify the date of service;

(d) be in the prescribed form (where applicable);

(e) where the tenancy has subsisted for more than six months, or is a Further Part 4 tenancy, state the reason for termination where the notice is served by the landlord;

(f) specify the termination date, including the date on which the tenancy terminates and by which the tenant must vacate possession, while making clear that the tenant has the entirety of that day to vacate; and

(g) state that any dispute concerning the validity of the notice or the entitlement to serve it must be referred to the Residential Tenancies Board within 28 days of receipt.

The Tribunal is satisfied that each of these statutory requirements has been met.

**Validity of the Statutory Declaration**

The Tenants, in written submissions furnished to the RTB in Case File TR5, under the heading "Further Threshold Clarification Obtained After the Hearing – Clause 8.2," submitted that:

"Threshold identified that an important part of the statutory declaration was missing, namely wording concerning the tenant's statutory right to be offered the opportunity to re-occupy the dwelling if the proposed sale does not proceed within the required statutory period."

The statutory declaration furnished by the Landlords, contained at page 13 of Case File 3, states:

"I understand that I am required to offer to the tenant the option of a tenancy if I do not enter into an enforceable agreement to transfer to another for full consideration the whole of my interest in the dwelling or the property containing the dwelling within a period of nine months from the expiry of the notice period..."

The Tribunal notes that this wording differs from, but is substantially similar to, the specimen statutory declaration published by the Residential Tenancies Board, which provides:

"I will offer you the opportunity to re-occupy the dwelling under a tenancy if: (a) I do not enter into the agreement to sell within the period of nine months beginning on—

- the expiry of the notice period contained in the accompanying Notice of Termination; or
- where the validity of the Notice of Termination is referred to the RTB under Part 6 of the Act, the date of the final determination of that dispute..."

The issue for determination is not whether the statutory declaration reproduces the RTB specimen wording verbatim, but whether it satisfies the statutory requirements prescribed by the Act.

Section 35(8)(a)(aa) requires a declaration that the landlord acknowledges the statutory obligation to offer the tenant a tenancy of the dwelling in the circumstances prescribed by the Act. The declaration sworn by the Landlords expressly states that they understand they are required to offer the tenant the option of a tenancy should an enforceable agreement for sale not be entered into within the statutory ninemonth period.

Although the wording employed by the Landlords in this case differs from the RTB template, the Tribunal is satisfied that it conveys the same substantive legal obligation and is neither misleading nor materially deficient.

This conclusion is reinforced by section 12 of the Interpretation Act 2005, which provides that where a form is prescribed by or under an enactment:

"a deviation from the form which does not materially affect the substance of the form or is not misleading in content or effect does not invalidate the form used."

Accordingly, the Tribunal is satisfied that the statutory declaration substantially complies with the requirements of section 35 of the Act and is valid for the purposes of the Notice of Termination.

Having considered the evidence and submissions of the parties, the Tribunal is satisfied that the Notice of Termination complies with the requirements of the Residential Tenancies Act 2004 (as amended), that it was validly served, and that the Respondent Landlords have established the requisite statutory ground under section 34, namely a genuine intention to sell the dwelling within the period prescribed by the Act.

The Tribunal therefore finds that the Notice of Termination is valid and effective, and that the Applicant Tenants have been overholding since the expiry of the notice period.

Having regard to the fact that the Tenants have been overholding since 13 April 2026, the Tribunal considers it proportionate to direct that the Tenants vacate and deliver up vacant possession of the dwelling within 56 days of the date of issue of the Determination Order.

The Tribunal further directs, that rent shall remain payable until the tenancy has finally terminated and vacant possession of the dwelling has been delivered to the Landlords.

Finally, the Tribunal directs that the tenancy deposit shall be returned to the Tenants following the termination of the tenancy, save to the extent that the Landlords establish a lawful entitlement under the Residential Tenancies Act 2004 to retain all or part of the deposit.

**Finding 2.**

The Tribunal finds that, by failing to provide permanently fixed heating facilities in part of the dwelling, the Respondent Landlords breached their statutory obligations to maintain the dwelling in accordance with the Residential Tenancies Act 2004 (as amended) and the Housing (Standards for Rented Houses) Regulations 2019. Accordingly, the Tribunal determines that the Respondent Landlords shall pay the Applicant Tenants the sum of €500 by way of damages for breach of their obligations under section 12(1)(b)(ii) of the Act.

**Reasons for findings.**

It was not disputed that the three heaters supplied by the Respondent Landlords to address deficiencies in the ground-floor heating system were portable plug-in electric radiators and were not permanently fixed heating appliances.

Section 12(1)(b)(i) and (ii) of the Residential Tenancies Act 2004 imposes an obligation on a landlord to carry out—

"(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,

(ii) the interior of the dwelling all such repairs and replacement of fittings as are, from time to time, necessary so that the 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 Housing (Standards for Rented Houses) Regulations 2019 provide at Regulation 6(1):

"Every room used, or intended for use, by the tenant of the house as a habitable room, and any bathroom or shower-room shall contain a permanently fixed— (a) heat emitter,

(b) heat distribution system, or (c) heat producing appliance, capable of providing effective heating."

The Tribunal accepts the evidence of the Applicant Tenants that the inadequacy of the heating arrangements was brought to the attention of the Respondent Landlords and notes the email correspondence between the Tenants and the Landlords' agent contained at page 34 of Mediation Case File 2. The Tribunal is satisfied that the Respondent Landlords' financial circumstances, while acknowledged, do not diminish or qualify their statutory obligations under section 12 of the Act or the minimum standards prescribed by the 2019 Regulations. The provision of three portable plug-in electric radiators, irrespective of their efficiency or quality, did not satisfy the statutory requirement to provide permanently fixed heating facilities and therefore did not discharge the Respondent Landlords' obligations under the Act.

The Tribunal notes the Applicant Tenants' closing submission that they are entitled to damages of €506 for each year of the tenancy commencing in 2017. However, the Tribunal is not satisfied that damages can properly be awarded for any period prior to the Respondent Landlords having been placed on notice of the breach. The evidence establishes that the relevant correspondence between the parties commenced on 29 January 2025.

While the Applicant Tenants maintained in their closing submissions that damages should be calculated at €506 per annum from the commencement of the tenancy, the Tribunal is satisfied that an award of €500 is fair, proportionate and appropriate in all the circumstances. Although the Tenants possibly incurred additional heating costs through reliance on portable electric heaters, the evidence does not permit the Tribunal to quantify with precision the additional expenditure directly attributable to that breach.

Having regard to the nature of the breach, the period during which the Respondent Landlords were on notice, and the evidence before it, the Tribunal considers that an award of €500 appropriately compensates the Applicant Tenants for the breach of the Respondent Landlords' obligations.

The Tribunal further directs that the sum of €500 shall be paid within 28 days of the date of issue of the Determination Order, having regard to the Applicant Tenants' entitlement to an effective and timely remedy and the amount of the award.

**Finding 3.**

The Tribunal finds that the rent review notice dated 1 April 2025 is valid and that the rent payable from 1 August 2025 is €1,937 per month.

**Reasons for findings**.

Section 22(3) of the Residential Tenancies Act 2004 provides that a dispute concerning the validity of a rent review must be referred to the Residential Tenancies Board before the date on which the reviewed rent is to take effect or within 28 days of receipt of the notice, whichever is the later. The evidence establishes that:

- the rent review notice was served on 1 April 2025;
- the reviewed rent took effect on 1 August 2025; and
- the Applicant Tenants referred the dispute to the Residential Tenancies Board on 4 September 2025.

As the referral was made after both the effective date of the reviewed rent and the statutory time limit prescribed by section 22(3), the Tribunal is satisfied that the challenge to the rent review was made

outside the time permitted by the Act. Accordingly, the rent review notice is valid and the rent payable from 1 August 2025 is €1,937 per month.

**Finding 4.**

The Tribunal finds that the Respondent Landlords did not contravene section 14 of the Residential Tenancies Act 2004 by penalising the Applicant Tenants.

**Reasons for findings.**

The Tribunal is satisfied that the service of the Notice of Termination dated 6 August 2025 was not motivated by any intention to penalise the Applicant Tenants for asserting their rights under the Act. Rather, the evidence demonstrates that the decision to terminate the tenancy arose from the Respondent Landlords' financial and personal circumstances.

The Tribunal accepts the Respondent Landlords' evidence that they harboured no ill will towards the Applicant Tenants. The Tribunal also notes that an earlier Notice of Termination had been served on 28 May 2024, before the Applicant Tenants first raised concerns regarding the heating system.

The email correspondence between the Applicant Tenants and the Respondent Landlords' agent, commencing in January 2025 (Mediation Case File 2, page 33), demonstrates that the heating complaints were first raised several months after service of the original Notice of Termination. The chronology is inconsistent with the proposition that the termination of the tenancy constituted a retaliatory or penalising response to those complaints. In those circumstances, the Tribunal is not satisfied that the Applicant Tenants have established a breach of section 14 of the Act.

**8. Determination:**

**Tribunal reference TR0001436**

In the matter of Marina Molotoka and Ruslana Karmazina, Applicant Tenants, and Siobhan McAuley and Steven McAuley, Respondent Landlords, the Tribunal, pursuant to section 108(1) of the Residential Tenancies Act 2004 (as amended), hereby determines as follows:

1. The Notice of Termination dated 6 August 2025, served in respect of the tenancy of the dwelling situated at 173A Balrothery Estate, Dublin 24, D24 YAA4, is valid.
2. The Applicant Tenants, together with all other persons in occupation of the dwelling shall vacate and deliver vacant possession of the dwelling within 56 days of the date of issue of the Board's Determination Order.
3. The rent review notice dated 1 April 2025 is valid. The rent payable with effect from 1 August 2025 is €1,937 per calendar month. The Applicant Tenants, for so long as they remain in occupation of the Dwelling shall continue to pay all rent outstanding from 10 July 2026, being the date of the Tribunal hearing, at the rate of €1,937 per calendar month, or a proportionate daily rate of €63.68 (calculated as €1,937 × 12 ÷ 365), unless the rent is lawfully varied in accordance with the Act. The Applicant Tenants shall also pay any other sums lawfully due under the tenancy agreement for each month, or proportionate part thereof, until vacant possession of the dwelling is delivered in accordance with paragraph 2 above.
4. Upon the Applicant Tenants, together with all other persons in occupation of the dwelling vacating and delivering vacant possession of the dwelling in accordance with the Determination Order, the Respondent Landlords shall refund the full security deposit of €1,600 to the Applicant Tenants, less only such deductions as may be lawfully made in accordance with the Residential Tenancies Act 2004 (as amended).

5. The Tribunal finds that the Respondent Landlords have breached their obligations under section 12(1)(b) of the Residential Tenancies Act 2004 (as amended) by failing to comply with the statutory requirements relating to the provision of permanently fixed heating facilities. The Respondent Landlords shall pay the Applicant Tenants damages in the sum of €500 within 28 days of the date of issue of the Determination Order.

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



**Dervla Quinn**
**Chairperson**
For and on behalf of the Tribunal.