Neutral Citation: [2015] IEHC 724

THE HIGH COURT

[2014 No. 264 S.P.]

BETWEEN

MICHAEL DOYLE

PLAINTIFF/APPLICANT

AND

THE PRIVATE RESIDENTIAL TENANCIES BOARD

DEFENDANT/RESPONDENT

AND

TOM KAVANAGH

NOTICE PARTY

JUDGMENT of Ms. Justice Baker delivered on the 10th day of November, 2015

1. The applicant brings these proceedings by special summons pursuant to s.123(3) of the Residential Tenancies Acts 2004 – 2009 (the "Act") in which he claims that the respondent, the Private Residential Tenancies Board (the "PRTB"), erred in law in determining a dispute between him and his landlord in respect of arrears in rent. The claims in the special summons may be broken down into three parts. First, a claim that the respondent erred in law in certain procedural approaches taken by it to the questions before it. Second, a claim that the respondent erred in determining that the applicant had a contractual obligation to pay rent to the notice party, a receiver appointed to a company which owned the lessor's interest in the tenancy. Third, a claim for certain consequential orders varying and/or cancelling the determination order issued by the respondent on the 13th June, 2014.

2. The respondent and the notice party were separately represented by solicitor and counsel, although each of them may be said to be representing the same interest in that they each sought to uphold the determination order made by the PRTB and each of them denied that any error of law occurred, whether in the procedural manner alleged by the applicant, or in the proper interpretation of the contractual matrix giving rise to the tenancy.

3. The respondent and the notice party each make a preliminary point that the proceedings are improperly constituted and that the claim of the plaintiff/applicant is more properly characterised as a claim amenable to judicial review, and that no point of law arises which may be appealed under the section.

Background facts

4. The applicant is a software developer and company director and on the 18th December, 2008 entered into a residential tenancy agreement with one Mark McInerney in respect of a residential premises at Sienna, 3 Rockbrook Hall, Bray Road, Foxrock, Dublin 18, and where he has continued to live with his family. The initial rent was agreed at €5,000 per month and this was reduced by agreement on the 18th December, 2010, to €3,000 per month.

5. The tenancy agreement was registered with the PRTB as is required by statute.

6. The initial letting was for 12 months certain, and was renewed from time to time, the last formal renewal being agreed between the applicant and Mr. McInerney on the 18th December, 2012.

7. Shortly thereafter the applicant received a letter dated the 9th April, 2013 from Tom Kavanagh, the notice party, notifying him that on the 22nd March, 2013 he had been appointed as receiver over certain assets of a company, Cheval Construction Ltd. ("Cheval"), and that rent should henceforth be paid to the receiver. One payment in the sum of €2,000 was made by the applicant to the receiver in May 2014. No other payments have been made. A dispute arose between the receiver and the applicant as to the monthly rent, and the receiver ultimately accepted that he was bound by an agreement made before his appointment to reduce the rent to €3,000 per month. Nothing now turns on that disagreement.

8. The receiver served a notice of termination on the 11th October, 2013, in respect of the tenancy and pursuant to s. 34 of the Act. The reason stated for the termination of the tenancy was "due to the breach of your tenancy obligation in that you failed to pay rent in accordance with the terms of the tenancy agreement, and your obligations under the Residential Tenancies Act 2004". Twenty four hours' notice was given and the applicant was required to deliver up possession on the expiration of the notice period.

9. On the 22nd October, 2013, the applicant submitted an application for dispute resolution to the PRTB, pursuant to s. 78 of the Act of 2004, alleging that the notice of termination was invalid. The adjudicator on the 11th December, 2013, made a determination that the notice of termination was valid. The matter was appealed by the applicant to the Appeals Board, and came up for hearing before the PRTB Tenancy Tribunal (the "Tribunal") on the 19th May, 2014, when both parties were represented by a solicitor.

10. The Tribunal decision issued on the 5th June, 2014, determined that the notice of termination was invalid by reason of non-compliance with ss. 34 and 67(3) of the Act of 2004. The PRTB, however, determined that the applicant should pay the sum of €40,098.63 by way of as arrears of rent within 28 days of the issue of the determination notice.

11. It is in respect of the determination that the applicant should pay the said sum in respect of arrears of rent that these proceedings are brought and the applicant argues that the PRTB had no jurisdiction to make this determination, as there was "no dispute or complaint before the PRTB, or before the adjudicator at first instance, in respect of any matter other than the invalidity of the notice of termination."

An appeal on a point of law

12. The applicant identifies certain issues as points of law in respect of which a statutory appeal is said to arise. The respondent asserts that the points raised are either points of fact or points more properly raised by way of judicial review, in that the applicant's argument is essentially one that the Tribunal exceeded its jurisdiction. It therefore falls first to me to determine whether these are questions of law or fact, or whether the decision of the Tribunal ought properly have been challenged in respect of some or all of its findings by way of judicial review.

13. The distinction between an appeal on a point of law created by a statutory appeal mechanism and a judicial review is one in respect of which there is some judicial authority, but the authorities point to some difficulty in defining the exact line of demarcation between them. Recently the Supreme Court considered the question in *Fitzgibbon v. Law Society of Ireland* [2014] IESC 48 where Clarke J. delivered a concurring judgment by which he offered what he described as *"observations"* on the distinction between forms of appeal, and considered how to characterise an appeal on a point of law from a statutory body or decision-maker, and distinguish it from other forms of appeal or review. He gave by way an example of an appeal on a point of law from a statutory body the type of appeal in this case, an appeal under s. 123(3) of the Residential Tenancies Act 2004.

14. As Clarke J. pointed out, there is an established jurisprudence as to the meaning of the term *"appeal on a point of law"* and he referred to the seminal judgment of Kenny J. in *Mara v. Hummingbird Ltd.* [1982] I.L.R.M. 421 which identified a distinction between an appeal on fact or primary facts, and an appeal on a point of law. The latter includes decisions based on an interpretation of documents, and of statutory provisions, which fall squarely within the definition. More difficult to characterise are appeals where a deciding body had come to conclusions on primary facts which no reasonable body could have made, and such decisions are amenable to an appeal on a point of law as the deciding body *"must be assumed to have misdirected himself as to the law or made a mistake in reasoning".* The third category of an appeal on a point of law is the more obvious one of where a deciding body has adopted a wrong view of the law.

15. The matter was summarised by McKechnie J. in *Deely v. Information Commissioner* [2001] 3 I.R. 439 at p. 452 and the four principles stated were quoted with approval by Clarke J. and later cited in the Supreme Court judgments of both Fennelly and Kearns JJ. In *Sheedy v. Information Commissioner* [2005] 2 I.R. 272. They bear repeating here:

> *"There is no doubt but that when a court is considering only a point of law, whether by way of a restricted appeal or via a case stated, the distinction in my view being irrelevant, it is, in accordance with established principles, confined as to its remit, in the manner following:-*
>
> *(a) it cannot set aside findings of primary fact unless there is no evidence to support such findings;*
>
> *(b) it ought not to set aside inferences drawn from such facts unless such inferences were ones which no reasonable decision making body could draw;*
>
> *(c) it can however, reverse such inferences, if the same were based on the interpretation of documents and should do so if incorrect; and finally;*
>
> *d) if the conclusion reached by such bodies shows that they have taken an erroneous view of the law, then that also is a ground for setting aside the resulting decision…"*

16. Laffoy J. considered the characterisation of a number of disputes in respect of which an appeal on a point of law was brought by a tenant in *Canty v. Private Residential Tenancies Board* [2007] IEHC 243. She considered that certain questions before her were questions of law, including the question as to the validity of the termination notice, the reasoning adopted by the Tribunal on the validity of a rent increase, and the period of notice required to be given by a landlord to effect such increase. She took the view that the Board had erred in law in determining that a valid notice of increase had been served by the landlord, and that one of the two notices of termination served by the landlord was invalid for failure to comply with the statutory time requirements. She refused to set aside a finding that the landlord had served a notice of termination in the context of his stated need and intention to occupy the premises for his personal use and whether this was *bona fide*, and did so applying a test of whether there was evidence to support such a finding.

17. Laffoy J. referred to the test in the case of a judicial review and quoted from the *dicta* of Finlay J. in *O'Keefe v. An Bord Pleanála* [1993] 1 I.R. 39 at p.72, with regard to the scope of judicial review to set aside a decision on the basis of irrationality. She too regarded *Mara v. Hummingbird Ltd*. as perhaps closer to the appropriate test in respect of an appeal on a point of law, and she summarised at p.19 the decision of Kenny J. as being that:

> *"findings on primary facts should not be set aside by the court unless there was no evidence whatsoever to support them"*

Discussion

18. In *Fitzgibbon v. Law Society of Ireland*, Clarke J. made an observation which guides me in my consideration as to whether some of the points raised by the applicant in this case are more properly matters for judicial review. At paras. 8.1-8.2 of his decision he said the following:

> *"Any public law decision having an effect on legal rights and obligations is, of course, amenable to judicial review. The purpose of judicial review is to determine the legality (whether procedural or substantive) of the decision challenged. While this judgment is not the place to engage in the difficult but important task of defining the precise boundaries of a judicial review (there is more than ample jurisprudence in this area), nonetheless it is, in my view, worthy of comment to note that, at the level of principle, there must be some difference between even the most restrictive form of appeal (being an appeal on a point of law only) and a judicial review.*
>
> *Given that judicial review lies in respect of all public law decisions affecting rights and obligations, it must be assumed that, by conferring a right of appeal, the Oireachtas intended that some greater degree of review is permitted than that which would have applied, in the context of judicial review, in any event. It is in that context that the concept of an "error within jurisdiction" may well be relevant. Without seeking to define the parameters of that concept, there clearly are errors which do not give rise to judicial review for they do not affect the lawfulness as opposed to the correctness of the decision taken. The precise extent of the type of error which may not give rise to a finding that a decision is unlawful as opposed to merely incorrect is not a matter on which I touch in this judgment."*

19. I consider that this dicta points to the proposition that when the Oireachtas provides a statutory right of appeal on a point of law, it must have intended some greater degree of court involvement with the decision than the perhaps more constrained approach taken by a court on judicial review. The distinction does allow a court hearing an appeal on a point of law to set aside a decision within jurisdiction where perhaps the evidence was sufficient to support a finding but where the decision was vitiated by legal error. It may also not involve an element of curial deference in a suitable case.

20. The appeal on a point of law, then, gives a wider scope to a court to reverse or vary a decision of the body at first instance, and while that is not to say that the court will set aside a finding of fact, more important for present purposes, it does suggest that a court hearing a statutory appeal may set aside a finding which arises from an incorrect interpretation of the law or of legal documents, including contractual documents which bear on the dispute, or a mixed question of law and fact.

21. I turn now to consider the grounds of appeal and whether they are amenable to the process envisaged by s. 123(3) of the Act

The first ground of appeal: no disagreement regarding rent arrears
22. The first point of appeal is that there was no "disagreement" or dispute between the appellant and his landlord with regard to arrears of rent. The applicant says that the sole dispute referred by him to the adjudicator, and on appeal to the Tribunal, was with regard to the validity of the termination notice. He succeeded in his appeal and the Tribunal held that the termination notice was invalid for absence of proper procedure or notice. The applicant argues that there was before the Tribunal, and at first instance before the adjudicator, no dispute within the meaning of s. 75 of the Act which allows a determination that he was in arrears of rent.

23. The Act allows a party or parties to refer to dispute resolution certain "disagreements" as defined in s. 75 (3) as follows:

> *"For the purposes of subsection (2) 'disagreement' shall be deemed to include—*
>
> *(a) any issue arising between the parties with regard to the compliance by either with his or her obligations as landlord or tenant under the tenancy,*
>
> *(b) any matter with regard to the legal relations between the parties that either or both of them requires to be determined (for example, whether the tenancy has been validly terminated),*
>
> *and, without prejudice to the generality of the foregoing, shall be deemed to include a claim by the landlord for arrears of rent to which the tenant has not indicated he or she disputes the landlord's entitlement but which it is alleged the tenant has failed to pay."*

24. The applicant argues that there was no claim for arrears of rent to which the deeming provisions apply as he had indicated that he disputed the right of the receiver to collect the rent. He says, however, that the Tribunal's jurisdiction is as a matter of law confined to the dispute raised by a person or persons who submit a dispute to it, and that its power to determine that dispute is constrained by the matters thus defined. He had not argued that there were no arrears, but rather that the notice did not give sufficient time and was not in compliance with the Act of 2004.

25. The respondent and the notice party argue that the question is not one of law, and at best is a question of jurisdiction, namely whether the Tribunal has a jurisdiction to entertain a claim for arrears of rent, and whether it exceeded the jurisdiction vested in it by virtue of the submission to dispute resolution by the applicant.

26. I consider that counsel for the PRTB is correct that the issue of the extent of the jurisdiction of the Tribunal is one which raises points amenable to judicial review. This does not however mean, for this present purpose, that the matter may be raised *only* by judicial review, and I consider that a point of law is engaged, namely whether there was as a matter of law, and having regard to the statutory provisions, a "disagreement" before the Tribunal that the rent was in arrears and directing payment of that rent. There is also a mixed question of law and fact whether the Tribunal correctly approached the hearing as one involving the question of arrears of rent, and in taking a view that it had the power to determine the arrears of rent. Accordingly, I accept that counsel for the applicant has identified a question of law with regard to the determination of the Tribunal, namely whether the Tribunal was correct in the way in which it approached the question.

27. In that regard I note s. 76 of the Act provides that either or both a landlord and tenant may refer a dispute for resolution. The Act envisages a number of disputes being determined in an adjudication or appeal to the Tribunal, and that one or several disputes may be referred by either landlord or tenant, or both. Section 76 is clear in this regard. What is not identified in the Act is how a disagreement is to be formulated, and whether the formulation by one or both parties, as is the case with pleadings in court litigation, is required to be formally set out by the parties before the hearing, or whether it may arise in the course of the hearing, subject of course to fair procedure being afforded to each party, and no matter of "surprise" arising.

28. The applicant does not argue that the question of rent arrears came as a surprise to him, and whilst he makes a number of averments in his affidavits that he was denied natural justice and that he was unaware that the issue of rent would be raised at the Tribunal, he does not say that he was denied natural justice in that the arrears of rent were raised for the first time either at the adjudication or at the hearing before the Tribunal, or that he asked for, and was not afforded, an opportunity to consider the figures. He says, rather, that rent was not an issue. I disagree, and consider that rent was a matter legally before the Tribunal and before it the adjudicator, and I say so for the following reasons.

29. In effect, what the applicant argues is that the person who fires the first shot or who first refers the issue to the resolution process fully delineates the matters that may be resolved in the process. This cannot be correct as a matter of law as by virtue of s. 75 of the Act any issue between the parties may be referred to the PRTB for resolution, and it cannot be the case that properly interpreted the section does not allow the respondent to an appeal to raise issues for determination.

30. I do not consider that the deeming proviso in s. 75(3) limits the power of the Tribunal to determine disputes with regard to arrears of rent to those disputes in respect of which the tenant has not indicated that he or she disputes the landlord's entitlement. I consider that on a true reading of s. 75(3), any issue between the parties with regard to the compliance with the covenants and agreements in a letting agreement, or with regard to their legal relations, may be submitted for dispute resolution, and that the landlord may, in the context of this referral, make a claim for arrears of rent.

31. Further, I consider that the adjudicator, and *ipso facto* the Tribunal on appeal, was entitled to inquire into each relevant aspect of the dispute, and this included the dispute with regard to the arrears of rent, and indeed as to the quantum of those arrears which ultimately came to be a matter of little contention between the parties. This is expressly provided in s. 97(2) of the Act, which

provides as follows:

> "The person appointed under section 93 (3) or 94 (a) to conduct the adjudication ("the adjudicator") shall inquire fully into each relevant aspect of the dispute concerned and provide to, and receive from, each party such information as is appropriate."

32. To some extent it might be argued that s. 97(2) begs the question raised in this case as it refers to "the dispute concerned" but a regard must also be had to s. 97(3) which provides:

> *"For that purpose, the adjudicator may require either party to furnish to him or her, within a specified period, such documents or other information as he or she considers appropriate."*

33. The procedure for dispute resolution is provided in Chapter 6 of the Act of 2004. The Tribunal *inter alia* hears appeals under s. 100 from the determination of an adjudicator, and it was by that procedure that the Tribunal came to hear the appeal in this case. The Tribunal is required under s. 104(3) to give notice of the holding of the hearing, and to include certain information and certain notices, including an outline of the substance of the matters to be dealt with at the hearing.

34. The combined effect of these sub-sections is that the Tribunal on appeal has the power to characterise or formulate the dispute, to request documentation and information, and to transmit the relevant documentation and information to each party. In doing so it identifies the issues.

35. The documentation furnished to the parties ran to 42 pages, with a fully paginated table of contents and included the report from the adjudicator, the rent statement, the deed of appointment of the receiver and correspondence. Thus, the Tribunal itself, in its notice dated the 27th March, 2014, furnished the relevant documentation and identified the issues, including the issue of rent arrears and the identity of the landlord.

36. It is evident from the documentation sent by the Tribunal to both parties in advance of the hearing in its letters of the 27th March, 2015 that the question of arrears of rent was a live issue in the file. In particular, I note a rent statement and correspondence relating to rent were enclosed by the PRTB in correspondence sent to both landlord and tenant in accordance with the statutory requirements

37. One of the documents furnished by the Tribunal to the parties in advance of the hearing was the report of the adjudicator, Dairine MacFadden, in respect of the adjudication held before her on the 11th December, 2013. From this it is clear that the landlord sought at that hearing "an order for the arrears of the rent and an order for possession". Thus there was before the adjudicator at least two issues, the issues with regard to the validity of the notice of termination, and the issue of the arrears of rent.

38. The applicant appealed the quantum of the rent, on a number of grounds, namely that there had been an agreed reduction, and that the tenant was entitled to deduct certain expenditure on maintenance against the moieties of rent. The notice of appeal expressly asserted that "the Adjudicator denied me an opportunity to present contradictory evidence to establish that the rent adjudicated on as being outstanding, was overstated and took no account of the counter-claims against the landlord for breach of his obligations." Further, the landlord put before the adjudicator in correspondence his claim for arrears of rent and the matter had thus crystallised as a claim and counter-claim.

39. Accordingly, I consider that the tenant himself put the issue of rent before the Tribunal, albeit not before the adjudication hearing. He thereby vested in the Tribunal on appeal an entitlement to consider the question of arrears in the appeal. In the alternative he implicitly accepted that the question was properly vested in the Tribunal. Equally, the landlord made a claim for arrears at first instance and on appeal.

40. Finally, and arising from first principle, I consider that the applicant is incorrect as his argument is in essence that the resolution process established by the Act, whether at first instance before the adjudicator, or on appeal before the Tribunal, requires pleadings and processes akin to those of a court. One of the purposes of the Act was to simplify the resolution of landlord and tenant disputes in the residential sector. This is clear from the long title which identifies the common good as one of the principles upon which the Act of 2004 was founded. At para. (c) of the long title the following appears:

> *"(c) with the aim of allowing disputes between such parties to be resolved cheaply and speedily, for the establishment of a body to be known as an Bord um Thionóntachtaí Cónaithe Príobháideacha or, in the English language, the Private Residential Tenancies Board and the conferral on it of powers and functions of a limited nature in relation to the resolution of such disputes,"*

41. The dispute resolution mechanism established by the Act of 2004 cannot involve the denial of natural or constitutional justice or fair process, but it is undoubtedly the case that the process was intended to be cheaper, more speedy and accordingly less cumbersome and weighed down with formal procedures than those which must be adopted by litigants in the courts. Thus, the procedure for the lodging of a short-form application for submission to dispute resolution does not of itself delimit the dispute and the extent of the dispute can come to be formulated in the course of a hearing before an adjudicator, or before the Tribunal, or in the case of the Tribunal by the Tribunal's own exercise of identifying the relevant documents and information which it considers relevant to the dispute and in respect of which the parties are given an opportunity to consider in advance of the hearing.

42. Further, I consider that the primary argument of the applicant, that the adjudicator and the Tribunal were constrained in their approach to the dispute by the initial dispute as framed or formulated by the applicant to be incorrect as a matter of law and as a matter of good sense. Even in the course of complex litigation in the Superior Courts, there is established jurisprudence that a party may amend pleadings, and this can be done even in the course of the trial. The requirements of justice and fairness of process can be met by an adjournment or, as the case may be, the making of case management directions or the hearing of modular issues. If such jurisprudence exists in the case of a court, then still more must be said to exist as a matter of law in a tribunal which is given a mandate to deal with disputes efficiently and speedily, and where no formal pleadings are required in the legislation or in any regulations for the initiation of dispute resolution. McGovern J. In *County Louth VEC v. Equality Tribunal* (Unreported, High Court, 24th July, 2009) commented on this and made the following observation at para. 6.2:

> *"If it is permissible in court proceedings to amend pleadings, where the justice of the case requires it, then a fortiori, it should be permissible to amend a claim as set out in a form such as the EE1, so long as the general nature of the complaint… remains the same."*

43. This comment was quoted with approval, and followed by Hedigan J. in *Clare County Council v. Director of Equality Investigations & Anor*. [2011] IEHC 303. It seems to me to guide my consideration of the first point of appeal and together with the reasons here articulated leads me to the conclusion that the question of rent arrears was before the Tribunal.

Conclusion on the rent question
44. For these reasons stated I therefore consider that the question of rent, and the claim by the landlord for the payment of arrears was before the adjudicator and before the Tribunal on appeal.

The second ground of appeal: The identity of the landlord
45. The second ground of appeal is that the Tribunal erred in law in determining that rent was due to the receiver, as there was "no agreement at all" between the applicant and the receiver which might have constituted a tenancy agreement in respect of which arrears of rent might have arisen. The claim is somewhat unclearly formulated, and the plaintiff changed solicitor after the initial proceedings and grounding affidavit were lodged. Counsel who argued the matter before me appropriately sought to refine the claim and he did so partly in the context of the statement of opposition as filed by the respondent and by the notice party. Counsel is to be commended for this approach.

46. The question of whether the receiver was entitled to the rent is undoubtedly a question of law, and is a question which brings into play s. 108 of the Land and Conveyancing Law Reform Act 2009, as well as the contractual relationship between landlord and tenant. It bears noting for that purpose that the notice of termination was served by the receiver arising from an alleged arrears of rent, and that the applicant at no time, neither before the adjudicator nor the Tribunal, nor indeed before this Court, made any argument whatsoever that the rent had not fallen into arrears, that he had paid his identified landlord, who was a natural person and not a company, the rent to date, or that the amount of rent calculated to be due and owing was incorrect arithmetically.

47. The argument made is that the evidence before the Tribunal did not justify its decision that the receiver was entitled to collect the rent. This is a question of law, and one amenable to appeal on a point of law, and, in accordance with the decision in *Mara v. Hummingbird Ltd.* However, I consider that this argument is wholly without merit and that there was ample evidence before the Tribunal, and indeed ample evidence submitted by the parties in advance of the hearing, showing the deed of appointment of the receiver, and the chain of correspondence between the applicant and the receiver. The applicant never sought to challenge the title of the receiver having received sufficient evidence of his appointment. The applicant was prudent not to seek to deny the title of his landlord as this might have brought about a forfeiture as a matter of law. Mark McInerney, the person originally identified by the applicant as being his landlord, was a director of Cheval and also its secretary, and if the applicant has a tenancy, it has to be with the company, and the company being in receivership, the receiver is entitled to collect the rent.

48. What is noteworthy also in the finding of the Tribunal is that the applicant gained advantage from the receiver's acceptance that he was bound by the agreement to accept a reduced monthly rent. The receiver gave evidence in the course of the hearing that he was "sufficiently persuaded" in a separate dispute process between him and the applicant that such an agreement had been reached. Thus, by November 2013, on his evidence, he accepted the lower rent, and the applicant had the advantage of an earlier dispute resolution process in which he had successfully persuaded the receiver that he was bound by the contractual agreement to reduce the rent. Thus even as early as November 2013 the applicant had engaged with the receiver, when the amount of the arrears was in issue between them and the quantum was one capable of being calculated at a figure below that initially claimed by the receiver. At that point in time the identity of the landlord had ceased to be an issue between the parties and I consider that the applicant's attempt to bring it later into issue is without merit, and was not one seriously contended before the Tribunal at the oral hearing at which he was legally represented. I consider that the applicant, having gained the advantage of a dispute resolution mechanism with the receiver, and having persuaded him to accept the lower rent, cannot now seek to argue in this Court that he did not know, or that there was insufficient evidence before the Tribunal, that the person lawfully entitled to the rent was the receiver, and not the natural person whom he identified as landlord in correspondence.

49. I accept the argument of counsel for the receiver that the applicant did not raise at the adjudication hearing or at the Tribunal the question of the identity of the landlord or of his title. In that context, that matter is not before me, and may not be raised by way of a separate appeal. Furthermore, even if I am incorrect in this, it seems to me that there was adequate evidence on which the Tribunal could have made its decision, and that the applicant, if he is to take a prudent approach to the question, must accept that the rent is payable to the receiver. I also take the view, and this is a view on facts, that the correspondence between the applicant and the receiver adequately recognises the receivership and the receiver's right to collect rent, and that the earlier dispute resolution in November 2013, and the current dispute as it played out in the correspondence regarding the question of the validity of the termination notice, contains an acknowledgement by the applicant of the role of the receiver and his right to collect rent, although I make that observation by way of comment only and the question is one of fact in respect of which I have jurisdiction to decide.

Conclusion
50. Accordingly, I consider that the applicant has not made out a case, and that the Tribunal did not err in determining that the receiver was entitled to receive that rent.

The third point of appeal
51. The third point of appeal raised is that the Tribunal did not have jurisdiction to determine the appeal as the tenancy was not registered under s. 134 of the Act. The obligation to register is imposed by the section on the landlord and the evidence is that the tenancy was registered on 18th December, 2008, but that in the registration particulars the landlord was identified as Mr McInerney and not the company, Cheval. In the case where a landlord is a company s. 136 requires that the registered number and office of that company be identified. Section 135 requires that each new tenancy be registered.

52. I express no view as to whether the tenancy was a "new" or different tenancy from that registered and that question has no bearing on the matter before me for reasons that will appear below.

53. By virtue of s. 83 of the Act the Tribunal has no power to deal with a dispute referred to by a landlord where the relevant tenancy is not registered.

54. The applicant claims that as the tenancy of the company was not registered that the Tribunal had no jurisdiction to deal with the dispute, and that the determination must therefore fall insofar as it deals with any dispute referred by the landlord.

55. This ground of appeal must fail as it was not raised in the adjudication hearing or before the Tribunal on appeal. This Court is not hearing the appeal de novo and is confined by its statutory remit to consider only those matters of law wrongly determined by the deciding body.

Conclusion
56. The appeal therefore fails for the reasons stated.