

BYRNE v. Martina

THE HIGH COURT

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No.2/82

DUBLIN CIRCUIT

COUNTY OF THE CITY OF DUBLIN

BETWEEN/

TONY BYRNE

Applicant

and

MARTINA INVESTMENTS LIMITED

Respondent



Judgment of O'Hanlon J., delivered the 30th day of January, 1984.

This an application by the Applicant under Section 1, Sub-section (1) of the Landlord and Tenant (Amendment) Act, 1980, to determine the right of the Applicant to a new tenancy of the premises comprising the basement of 51 Grafton Street in the City of Dublin, formerly held by the Applicant under a Lease for a term of ten years from the 15th April, 1971, and to fix the terms of such new tenancy.

Initially, the entitlement of the Applicant to be granted a new lease was challenged by the Respondent, but that challenge has not been pursued, and the evidence on the

hearing of this appeal was confined to evidence by Valuers called on both sides as to the rent which would be appropriate on a renewal being granted of the lease under which the premises were held up to the year 1981.

The Lease of the 15th April, 1971, reserved a yearly rent of £850 for the first five years of the term, the rent then to be reviewed in line with any increase which had taken place in the meantime in the cost of living, and it further provided that a similar method should be utilised for determining the rent of the premises "after every subsequent period of five years and after any renewal or extension after the expiry of this Lease".

While an attempt by the parties to contract out of the Statute which then governed the relationship of Landlord and Tenant of business premises let for a term of years was probably of no effect, the clause in question represented a reasonable approach by both parties to the determination of the rent of the premises for the future and I am prepared to have some regard to it when considering what figure should apply as and from the expiration of the original term in

April, 1981. Were one to give strict effect to this agreement of the parties, I am informed that it would produce a figure in the region of £3,400 per annum. The rent as fixed by the learned Circuit Court Judge was £3,250 per annum. Having regard to the comparisons put forward by the Valuers on both sides, I think that that was a reasonable figure and I do not propose to disturb it. I therefore affirm the Order made by the learned Circuit Court Judge in relation to the application under the Landlord and Tenant Acts.

*R. J. O'Hanlon.*

R.J. O'Hanlon

30th January, 1984