

Residential Tenancies Board



Guide to taking enforcement proceedings in the Circuit Court

PLEASE NOTE: The process map and the appended sample documents are intended as a guide only and should be tailored to the circumstances of the individual case. This guide and the appended sample documents are not to be construed as legal advice. The RTB takes no responsibility for any failure by a party to enforce his/her/their/its Determination Order.



RTB

Bord Um Thionóntachtaí Cónaithe
Residential Tenancies Board

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CIRCUIT COURT PROCESS MAP

The below is a process chart broadly outlining the steps involved in applying to the Circuit Court to enforce a Determination Order of the Residential Tenancies Board (“RTB”). The person making the application to enforce the Determination Order is known as the “**Applicant**”. The person against whom the Determination Order is sought to be enforced is known as the “**Respondent**”. The appropriate Circuit is that in which the dwelling or tenancy is or was situated. On www.courts.ie, you can find contact information for each of the Circuit Court offices around the country.

PLEASE NOTE: The relevant Circuit Court office should be contacted in advance to confirm the procedure, as the steps may vary slightly from one circuit to the next.

Step 1: A **Determination Order** (samples provided at Appendix 1) issues from the RTB to the parties to the dispute and if not complied with within the time period specified for compliance, it may be enforced.

Step 2: You have the option of issuing a “**pre-litigation letter**” (sample provided at Appendix 2) to the non-compliant party stating that if the Determination Order is not complied with within seven days, you will begin Circuit Court proceedings to obtain an Order of the Court requiring the respondent to comply with the Determination Order. It is not an essential proof for your case to send this letter, but is recommended.

Step 3: If the non-compliant party still fails to comply with the Determination Order, proceedings may be issued in the Circuit Court in which the disputed dwelling is located. The application is made under Section 124 of the **Residential Tenancies Act 2004** (the “2004 Act”).

Step 4: Contact the RTB to request necessary **proofs**, which will be required in Court for your enforcement case. Call 0818 30 30 37 or email: enforceorder@rtb.ie.

Step 5: You should take the time to review the Circuit Court procedure, which can be found at **Order 51A of the Circuit Court rules** – available at www.courts.ie.

Step 6: As Applicant you must draft a “**Notice of Motion**”. The Notice of Motion will set out the relief or outcome you seek (i.e. a Court Order enforcing the terms of the Determination Order). A form of Notice of Motion is available at Form 44C of the schedule of forms to the Circuit Court rules, and this is available on the Courts website, www.courts.ie. (sample Notices of Motion are provided at Appendices 3-5). **NB:** You should amend this form as appropriate to reflect the facts of your case. The sample Notices of Motion at Appendices 3-5 are for general guidance only.

Step 7: Annex a **certified copy** (available from the RTB) of the Determination Order to the Notice of Motion.

Step 8: Draft a “**Grounding Affidavit**”. (Sample Grounding Affidavits are provided at Appendices 3-5). The purpose of the Grounding Affidavit is to set out the facts being relied upon in the case, including details of the background to the dispute, the determination made and confirmation that the respondent to the proceedings has failed to comply with the terms of the Determination Order. **NB:** You should draft the Affidavit to reflect the facts of your case. The sample Grounding Affidavits at Appendices 3-5 are for general guidance only.

Step 9: Prepare the “**Exhibits**” (documents you refer to in your Affidavit). The RTB will have provided you with a copy of necessary proofs (see Step 4). The Exhibits may include the following:

- a) The application for dispute resolution services;
- c) The adjudication report and also the tenancy tribunal report (if the case was appealed);
- d) A copy of the Determination Order and letter enclosing same;
- e) Any relevant correspondence with the respondent, including correspondence to the respondent regarding their non-compliance and any response received. Correspondence marked “without prejudice” or which was not intended to be relied upon, i.e. a private settlement offer, should not be exhibited to the Affidavit. If you are unsure whether a document is “without prejudice” you should take legal advice.

Step 10: You must “**swear**” the Grounding Affidavit before a Solicitor or Commissioner for Oaths. This means that you swear that the information you are providing to the Court in the Grounding Affidavit (and Exhibits) is correct to the best of your knowledge. Any Solicitor who holds a certificate of practice can witness the swearing of a Grounding Affidavit which presently (April 2016) costs €10.00 per Affidavit and €2.00 per Exhibit.

Step 11: Take the Notice of Motion (see Step 6) and Grounding Affidavit (see Step 8) to the **Stamping Office** in the relevant Circuit Court Office and the Courts Service Official will stamp each relevant document with the appropriate **stamp duty** (stamp duty is a charge or tax for filing the documents with the Courts Service). The stamp duty which must be paid for a Notice of Motion is currently €130.00. The stamp duty applicable to a Grounding Affidavit is currently €15.00. This information is available on www.courts.ie. Make the appropriate number of copies of the document once it is stamped.

Step 12: Take the stamped Notice of Motion, Grounding Affidavit and Exhibits (see Step 9) and the copies to the relevant **Circuit Court Office** and have the Motion issued; this means that a record number and a hearing date for the application will be assigned by the Courts Service. Some circuits will assign what is known as a “**callover date**” to a case before assigning the hearing date. It is recommended that you contact the appropriate Circuit Court Office to confirm the procedure in advance. A ‘callover’ is a sitting at which pending cases are called over in Court to determine if they are ready to proceed to hearing. Cases which are ready to proceed are assigned dates for hearing. You should attend the callover date.

Step 13: It is **your** responsibility, as applicant, to “**serve**” the respondent with the Notice of Motion, Grounding Affidavit and the Exhibits. This is an extremely important step in the process to ensure that the respondent is on notice of the reliefs you are seeking and is given an opportunity to prepare his/her case. The respondent must be served no later than 10 days prior to the hearing date.

Step 13 (i) Serve the Notice of Motion and Grounding Affidavit and Exhibits on the respondent by either:

- a) Personal service (i.e. hand it to them in person);
- b) By leaving a true copy at the respondent’s residence or place of business; or
- c) By posting by way of registered post to the respondent’s residence or place of business.

Step 13 (ii) You must also serve the Notice of Motion and Grounding Affidavit and Exhibits on the RTB at PO Box 47, Clonakilty, County Cork (marked for the attention of the Enforcement Section).

Step 14: Following service of the papers as set out at Step 13(i) and 13(ii) an **Affidavit of Service** should be sworn before a Solicitor or Commissioner for Oaths (see Step 10), outlining how the documents were served. If you served the documents with a covering letter, it is recommended that you exhibit this letter to the Affidavit of Service. If the respondent has been served by registered post, a copy of the certificate of posting and proof of delivery (available from the An Post website www.anpost.ie) should also be exhibited. (A sample Affidavit of Service is attached at Appendix 6).

Step 15: The Affidavit of Service should be stamped with the applicable stamp duty (currently €15.00) and filed with the relevant Circuit Court Office.

Step 16 (Court hearing): You must attend at the Circuit Court in the hearing on the date assigned by the Court Service and it is recommended that you have a full copy (and additional copy in ease of the Court) of the documents that you will be relying on before the Court.

Step 16 (i): On the hearing date, your case will be called. You or your representative must present your case to the Judge and explain the relief you are seeking. You may ask permission of the Judge to open your Grounding Affidavit to the Court to give him/her the background of the case. The Judge may ask you questions on the contents of your Grounding Affidavit or otherwise. The Judge may also ask the respondent to make submissions and to answer questions.

Step 16 (ii): If the Court is satisfied that the proofs are in order and the respondent has been properly served with notice of the proceedings, the Judge will make an Order enforcing the terms of the Determination Order in favour of the applicant.

Step 16 (iii): There are some circumstances where the Court will decide not to make an Order enforcing the terms of a Determination Order; see Section 124 of the Residential Tenancies Act 2004.

Step 16 (iv): If the respondent can satisfy the Court that there are good and substantial reasons for his/her having failed to appear at the RTB hearing, the Circuit Court may cancel/set aside the Determination Order and direct that a fresh determination of the matter be made; see Section 125 of the Residential Tenancies Act 2004.

Step 16 (v): The Court may make an Order in your favour in relation to the costs of taking the proceedings.

Step 17: After the hearing, contact the Circuit Court Office to request that they send out a copy of the Court Order to you.

Step 18 : You must serve the Court Order on the respondent.

PLEASE NOTE: If the respondent persists in failing to comply with the Court Order, execution of the Order may be pursued by any of the means permitted by the Circuit Court rules. You may contact the Circuit Court office or your solicitor to consider the options available.

APPENDIX 1 - SAMPLE DETERMINATION ORDERS

Rent Arrears

DETERMINATION ORDER Residential Tenancies Board

In the matter of Tom Smith [Applicant Landlord] and Kate Jones [Respondent Tenant], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

The Respondent Tenant shall pay the total sum of € [] to the Applicant Landlord, in [] consecutive monthly payments of € [], on the 28th day of each month, commencing on the 28th day of the month immediately following the date of issue of this Order. This sum being comprised of rent arrears of € [] having deducted the entire of the justifiably retained security deposit of € [] in respect of the tenancy of the dwelling at [].

The enforcement of this Order for such payment will be deferred and the sum owing reduced by the cumulative sum paid in the monthly instalments made by the Respondent Tenant to the Applicant Landlord on each due date until such time as the total sum of € [] has been paid in full.

For the avoidance of doubt, any default in the payment of any of the monthly instalments shall act to cancel any further deferral and the balance due at the date of default of any such monthly payment shall immediately become due and owing to the Applicant Landlord.

This Order was made by the Residential Tenancies Board on the [].

Deposit Retention

DETERMINATION ORDER **Residential Tenancies Board**

In the matter of Kate Jones [Applicant Tenant] and Tom Smith [Respondent Landlord], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

The Respondent Landlord shall pay the total sum of € [] to the Applicant Tenant, within 14 days of the date of issue of this Order, being the entire of the unjustifiably retained security deposit in respect of the tenancy of the dwelling at [Address].

This Order was made by the Residential Tenancies Board on the [].

Overholding and Rent Arrears

DETERMINATION ORDER Residential Tenancies Board

In the matter of Tom Smith [Applicant Landlord] and Kate Jones and Jack Jones [Respondent Tenants], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

The Notice of Termination served on [] by the Applicant Landlord on the Respondent Tenants in respect of the tenancy of the dwelling at [] is valid.

The Respondent Tenants and all persons residing in the above dwelling shall vacate and give up possession of the above dwelling within [] days of the date of issue of this Order.

The Respondent Tenants shall pay the sum of € [] to the Applicant Landlord, within [] days of the date of issue of this Order, being rent arrears in respect of the tenancy of the above dwelling.

The Respondent Tenants shall also pay any further rent outstanding from [], being the date of the Adjudication / Tenancy Tribunal hearing, at the rate of € [] per month or proportional part thereof at the rate of € [] per day and any other charges as set out in the terms of the tenancy agreement for each month or part thereof, until such time as they vacate the above dwelling.

The Applicant Landlord shall refund the entire of the security deposit of € [] to the Respondent Tenants, on gaining vacant possession of the above dwelling, less any amounts properly withheld in accordance with the provisions of the Act.

This Order was made by the Residential Tenancies Board on the [].

APPENDIX 2 - PRE-PROCEEDINGS LETTER

[INSERT YOUR ADDRESS]

Private & Confidential

[INSERT RESPONDENT'S NAME]

[INSERT RESPONDENT'S ADDRESS]

Re: Non Compliance with the Terms of the Determination Order
[INSERT REFERENCE] dated [INSERT]

[INSERT NAME] (Applicant Landlord/Tenant) and
[INSERT NAME] (Respondent Tenant/Landlord)

Dear [INSERT]

I refer to the above Determination Order of the Residential Tenancies Board (the "RTB") which you have failed to comply with to date.

Due to your failure to comply with the Determination Order, I intend to issue Circuit Court proceedings pursuant to Section 124 of the Residential Tenancies Act 2004, to compel you to comply with its terms.

I intend to issue these proceedings within seven days of the date of this letter and without any further notice to you. A hearing date will be obtained from the Circuit Court and the Notice of Motion and Grounding Affidavit will be served upon you.

[It is my intention to apply for the costs of these proceedings against you and I will use a copy of this letter to fix you with such costs.] **IF APPROPRIATE**

Please note that no further notice will be provided to you with regard to the issuing of these proceedings. I strongly advise you not to ignore the contents of this letter.

Yours sincerely

**APPENDIX 3 - SAMPLE NOTICE OF MOTION AND
GROUNDING AFFIDAVIT - RENT ARREARS**

PLEASE NOTE: This draft should be amended to reflect the circumstances of the individual case.

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

TAKE NOTICE that application will be made to the Circuit Court sitting at the [CONFIRM COURT ADDRESS] on the [INSERT] day of [INSERT] 20[INSERT] at [INSERT TIME] or the next opportunity thereafter for the following reliefs:

1. An Order pursuant to Section 124 of the Residential Tenancies Act, 2004 (hereinafter 'the Act') directing the Respondent to comply forthwith with the following term(s) of a Determination Order dated [DATE] and issued by the Notice Party on [DATE] to the Respondent regarding the tenancy of a premises at [DWELLING ADDRESS] (the 'Dwelling');
"The Respondent shall pay the sum of € [INSERT] to the Applicant".
2. Further or other order.
3. Costs. [IF APPLICABLE]

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Motion and the Affidavit of [Tom Smith] and Affidavit of Service thereof, the nature of the case and the reasons to be offered.

Grounds for Relief sought

The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular the failure of the Respondent to [INSERT DETAILS]

Basis of Jurisdiction

The dispute relates to the premises at [DWELLING ADDRESS], being a dwelling situate within the jurisdiction of this Honourable Court. The within application is made pursuant to Section 124 of the Residential Tenancies Act 2004.

Details of the Applicant

The Applicant was the Landlord of the Dwelling at the relevant time.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O'Connell Bridge House, D'Olier Street, Dublin 2 and engages, inter alia, in the resolution of disputes between tenants and landlords pursuant to the Act.

Grounding Documentation

The within application will be grounded upon the proceedings already had herein, the Affidavit of [TOM SMITH] (a copy of which is served herewith) together with the exhibits thereto, this Notice of Motion and annexed Certified Copy of the Determination Order, certified as being a true copy of the Determination Order received and sought to be enforced, proof of service thereof, the nature of the case and the reasons to be offered.

Dated this [INSERT] day of [INSERT] 20[INSERT]

Signed: _____

[TOM SMITH]

[ADDRESS]

To: County Registrar

[CONTACT COURT OFFICE TO CONFIRM ADDRESS]

To: [KATE JONES]

[ADDRESS]

To: Residential Tenancies Board

Second Floor

O'Connell Bridge House

D'Olier Street

Dublin 2

This Notice of Motion is filed by the Applicant this [INSERT] day of [INSERT] 20[INSERT]

APPEND CERTIFIED COPY DETERMINATION ORDER – EXAMPLE AT
APPENDIX 1 TO CIRCUIT COURT PROCESS MAP

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [TOM SMITH]

I, [TOM SMITH], [INSERT PROFESSION], of [ADDRESS], aged 18 and upwards, **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Notice Party, the Residential Tenancies Board (“**RTB**”) on [DATE OF DETERMINATION ORDER] (hereinafter referred to as the “**Determination Order**”) pursuant to the Residential Tenancies Act, 2004 (hereinafter referred to as the “**Act**”) as more fully set out hereunder.
3. I say that on [DATE OF APPLICATION] I applied to the RTB in my capacity as landlord, for dispute resolution services in connection with a property at [INSERT ADDRESS OF RENTED DWELLING] (hereinafter referred to as the “**dwelling**”). This application alleged that the Respondent, in her capacity as tenant, had breached her tenant obligations by [INSERT DETAIL]. I beg to refer to a copy of the said application for dispute resolution services upon which marked with the letters and number “**TS1**”, I have endorsed my name prior to the swearing hereof.
4. By way of background, [INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE].
5. I say that upon receiving my application for dispute resolution services, the Notice Party wrote to the Respondent and to me by letter dated [DATE] informing us that an adjudication hearing was scheduled to occur in respect of this dispute at [ADDRESS] on [DATE AND TIME]. I beg to refer to a copy of the said letter from the Notice Party to the Respondent dated [DATE] upon which marked with the letters and number “**TS2**”, I have endorsed my name upon prior to the swearing hereof.
6. I say that an adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that: [INSERT ADJUDICATOR’S DETERMINATION]

I beg to refer to a copy of the Adjudicator’s report, which marked with the letters and number “**TS3**” I have endorsed my name upon prior to the swearing hereof.

7. I say that by letters dated [DATE], the Adjudicator's report was forwarded by the Notice Party to the Respondent and to me. I beg to refer to a copy of the said letter dated [DATE] sent to the Respondent which marked with the letters and number "TS4", I have endorsed my name upon prior to the swearing hereof.

8. I say that no appeal was lodged by any party to the Adjudicator's determination [IF THIS IS APPLICABLE] and therefore, the Notice Party proceeded to make a Determination Order on [DATE] in accordance with Section 121 of the Act. The terms of the Determination Order were as follows: [INSERT TERMS OF DETERMINATION ORDER].

I beg to refer to a copy of the said Determination Order which marked with the letters and number "TS5", I have endorsed my name upon prior to the swearing hereof.

9. I say that by letter dated [DATE], the Determination Order was forwarded by the Notice Party to the Respondent and to me. I beg to refer to a copy of the said letter dated [DATE] upon which marked with the letters and number "TS6", I have endorsed my name upon prior to the swearing hereof.

10. I say that the Respondent failed to comply with the Determination Order [INSERT DETAILS OF NONCOMPLIANCE]. [IF APPLICABLE] - By letter dated [INSERT], I wrote to the Respondent noting her failure to comply with the Determination Order, and afforded the Respondent a seven day period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice to her. I beg to refer to a copy of the letter dated [DATE] which pinned together and marked with the letters and number "TS7", I have endorsed my name upon prior to the swearing hereof.

11. I say that notwithstanding the foregoing, the Respondent has failed to discharge the sum of € [INSERT] due and owing to me pursuant to the terms of the Determination Order or any part thereof. I therefore pray this Honourable Court for the relief sought in the Notice of Motion herein.

SWORN by the said **[TOM SMITH]** who is personally known to me or who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent this **[INSERT]** day of **[INSERT]** 20**[INSERT]** at

in the City of **[INSERT]** before me a Commissioner for Oaths/Practising Solicitor and I know the Deponent.

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit is filed by the Applicant this **[INSERT]** day of **[INSERT]** 20**[INSERT]**

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [TOM SMITH]

**APPENDIX 4 - SAMPLE NOTICE OF MOTION AND
GROUNDING AFFIDAVIT - DEPOSIT RETENTION**

PLEASE NOTE: This draft should be amended to reflect the circumstances of the individual case.

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[KATE JONES]

Applicant

-and-

[TOM SMITH]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

TAKE NOTICE that application will be made to the Circuit Court sitting at the [CONFIRM COURT ADDRESS] on the [INSERT] day of [INSERT] 20 [INSERT] at [INSERT TIME] or the next opportunity thereafter for the following reliefs:

1. An Order pursuant to Section 124 of the Residential Tenancies Act, 2004 (hereinafter 'the Act') directing the Respondent to comply forthwith with the following term(s) of a Determination Order dated [DATE] and issued by the Notice Party on [DATE] to the Respondent regarding the tenancy of a premises at [DWELLING ADDRESS] (the 'Dwelling');
"The Respondent shall pay the sum of € [INSERT] to the Applicant".
2. Further or other order.
3. Costs. [IF APPLICABLE]

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Motion and the Affidavit of [Kate Jones] and Affidavit of Service thereof, the nature of the case and the reasons to be offered.

Grounds for Relief sought

The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular the failure of the Respondent to [INSERT DETAILS].

Basis of Jurisdiction

The dispute relates to the premises at [DWELLING ADDRESS], being a dwelling situate within the jurisdiction of this Honourable Court. The within application is made pursuant to Section 124 of the Residential Tenancies Act 2004.

Details of the Applicant

The Applicant was the Tenant of the Dwelling at the relevant time.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O'Connell Bridge House, D'Olier Street, Dublin 2 and engages, inter alia, in the resolution of disputes between tenants and landlords pursuant to the Act.

Grounding Documentation

The within application will be grounded upon the proceedings already had herein, the Affidavit of [Kate Jones] (a copy of which is served herewith) together with the exhibits thereto, this Notice of Motion and annexed Certified Copy of the Determination Order, certified as being a true copy of the Determination Order received and sought to be enforced, proof of service thereof, the nature of the case and the reasons to be offered.

Dated this [INSERT] day of [INSERT] 20[INSERT].

Signed: _____

[KATE JONES]

[ADDRESS]

To: County Registrar

[CONTACT COURT OFFICE TO CONFIRM ADDRESS]

To: [TOM SMITH]

[ADDRESS]

To: Residential Tenancies Board

Second Floor

O'Connell Bridge House

D'Olier Street

Dublin 2

This Notice of Motion is filed by the Applicant this [INSERT] day of [INSERT] 20[INSERT]

APPEND CERTIFIED COPY DETERMINATION ORDER – EXAMPLE AT
APPENDIX ONE TO CIRCUIT COURT PROCESS MAP

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

BETWEEN:

[KATE JONES]

Applicant

-and-

[TOM SMITH]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

AN CHUIRT CHUARDA
THE CIRCUIT COURT

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004

BETWEEN:

[KATE JONES]

Applicant

-and-

[TOM SMITH]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [KATE JONES]

I, [KATE JONES], [INSERT PROFESSION], of [ADDRESS], aged 18 and upwards, **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Notice Party, the Residential Tenancies Board (“**RTB**”) on [DATE OF DETERMINATION ORDER] (hereinafter referred to as the “**Determination Order**”) pursuant to the Residential Tenancies Act, 2004 (hereinafter referred to as the “**Act**”) as more fully set out hereunder.
3. I say that on [DATE OF APPLICATION] I applied to the RTB in my capacity as tenant, for dispute resolution services in connection with a property at [INSERT ADDRESS OF RENTED DWELLING] (hereinafter referred to as the “**dwelling**”). My application alleged that [INSERT DETAILS]. I beg to refer to a copy of the said Dispute Resolution Form upon which pinned together and marked with letter and number “**KJ1**”, I have signed my name prior to the swearing hereof.
4. By way of background, [INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE].
5. I say that upon receipt my application for dispute resolution services, the Notice Party wrote to the Respondent and to me by letter dated [DATE] informing us that an adjudication hearing was scheduled to occur in respect of this dispute at [ADDRESS] on [DATE AND TIME]. I beg to refer to a copy of the said letter from the Notice Party to the Respondent dated [DATE] upon which marked with the letters and number “**KJ2**”, I have signed my name upon prior to the swearing hereof.
6. I say that an adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that: [INSERT ADJUDICATOR’S DETERMINATION].

I beg to refer to a copy of the Adjudicator’s report, which marked with the letters and number “**KJ3**” I have signed my name upon prior to the swearing hereof.

7. I say that by letters dated [DATE], the Adjudicator's report was forwarded by the Notice Party to the Respondent and to me. I beg to refer to a copy of the said letter dated [DATE] sent to the Respondent which marked with the letters and number "KJ4", I have signed my name upon prior to the swearing hereof.

8. I say that no appeal was lodged by any party to the Adjudicator's determination [IF THIS IS APPLICABLE] and therefore, the Notice Party proceeded to make a Determination Order on [DATE] in accordance with Section 121 of the Act. The terms of the Determination Order were as follows: [INSERT TERMS OF DETERMINATION ORDER].

I beg to refer to a copy of the said Determination Order which marked with the letters and number "KJ5", I have signed my name upon prior to the swearing hereof.

9. I say that by letter dated [DATE], the Determination Order was forwarded by the Notice Party to the Respondent and to me. I beg to refer to a copy of the said letter dated [DATE] upon which marked with the letters and number "KJ6", I have endorsed my name upon prior to the swearing hereof.

10. I say that the Respondent failed to comply with the Determination Order [INSERT DETAILS OF NONCOMPLIANCE]. [IF APPLICABLE] - By letter dated [INSERT], I wrote to the Respondent noting her failure to comply with the Determination Order, and afforded the Respondent a seven day period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice to her. I beg to refer to a copy of the letter dated [DATE] which pinned together and marked with the letters and number "KJ7", I have endorsed my name upon prior to the swearing hereof.

11. I say that the Respondent has failed to comply with the terms of the Determination Order. In particular the Respondent has failed to pay the sum of € [INSERT] to me. In these circumstances, I pray this Honourable Court for the reliefs sought in the Notice of Motion herein.

SWORN by the said **[KATE JONES]** who
is personally known to me or
who has been identified to me by

who is personally known to me and
who has certified to me his/her
personal knowledge of the deponent
this **[INSERT]** day of **[INSERT]**
20**[INSERT]** at

in the City of **[INSERT]** before me a
Commissioner for Oaths/Practising
Solicitor and I know the Deponent.

[KATE JONES]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit is filed by the Applicant this **[INSERT]** day of **[INSERT]**
20**[INSERT]**

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004**

BETWEEN:

[KATE JONES]

Applicant

-and-

[TOM SMITH]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [KATE JONES]

**APPENDIX 5 - SAMPLE NOTICE OF MOTION AND
GROUNDING AFFIDAVIT - OVERHOLDING**

PLEASE NOTE: This draft should be amended to reflect the circumstances of the individual case.

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES and JACK JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

TAKE NOTICE that application will be made to the Circuit Court sitting at the **[CONFIRM COURT ADDRESS]** on the **[INSERT]** day of **[INSERT] 20[INSERT]** at **[INSERT TIME]** or the next opportunity thereafter for the following reliefs:

1. An Order pursuant to Section 124 of the Residential Tenancies Act, 2004 (hereinafter 'the Act') directing the Respondent to comply forthwith with the following term(s) of a Determination Order dated [DATE] and issued by the Notice Party on [DATE] to the Respondent regarding the tenancy of a premises at [DWELLING ADDRESS] (the 'Dwelling'):
[INSERT DETAILS OF DETERMINATION ORDER].
2. An Order for Possession of the Dwelling in favour of the Applicant.
3. Further or other order.
4. Costs. [IF APPLICABLE]

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Motion and the Affidavit of [Tom Smith] and Affidavit of Service thereof, the nature of the case and the reasons to be offered.

Grounds for Relief sought

The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular the failure of the Respondent to [INSERT DETAILS].

Basis of Jurisdiction

The dispute relates to the premises at [DWELLING ADDRESS], being a dwelling situate within the jurisdiction of this Honourable Court. The within application is made pursuant to Section 124 of the Residential Tenancies Act 2004.

Details of the Applicant

The Applicant is the Landlord of the Dwelling.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O'Connell Bridge House, D'Olier Street, Dublin 2 and engages, inter alia, in the resolution of disputes between tenants and landlords pursuant to the Act.

Grounding Documentation

The within application will be grounded upon the proceedings already had herein, the Affidavit of [Tom Smith] (a copy of which is served herewith) together with the exhibits thereto, this Notice of Motion and annexed Certified Copy of the Determination Order, certified as being a true copy of the Determination Order received and sought to be enforced, proof of service thereof, the nature of the case and the reasons to be offered.

Dated this [INSERT] day of [INSERT] 20[INSERT]

Signed: _____

[TOM SMITH]

[ADDRESS]

To: County Registrar

[CONTACT COURT OFFICE TO CONFIRM ADDRESS]

To: [KATE JONES]

[ADDRESS]

To: [JACK JONES]

[ADDRESS]

To: Residential Tenancies Board

Second Floor

O'Connell Bridge House

D'Olier Street

Dublin 2

This Notice of Motion is filed by the Applicant this [INSERT] day of [INSERT] 20[INSERT]

APPEND CERTIFIED COPY DETERMINATION ORDER – EXAMPLE AT
APPENDIX 1 TO CIRCUIT COURT PROCESS MAP

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES and JACK JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

NOTICE OF MOTION

AN CHUIRT CHUARDA
THE CIRCUIT COURT

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES and JACK JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [TOM SMITH]

I, [TOM SMITH], [INSERT PROFESSION], of [ADDRESS], aged 18 and upwards, **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Notice Party, the Residential Tenancies Board (“**RTB**”) on [DATE OF DETERMINATION ORDER] (hereinafter referred to as the “**Determination Order**”) pursuant to the Residential Tenancies Act, 2004 (hereinafter referred to as the “**Act**”) as more fully set out hereunder.
3. I say that on [DATE OF APPLICATION] I applied to the RTB in my capacity as landlord, for dispute resolution services in connection with a property at [INSERT ADDRESS OF RENTED DWELLING] (hereinafter referred to as the “**dwelling**”). This application alleged that the Respondents [INSERT DETAILS].

I beg to refer to a copy of the said application for dispute resolution services upon which marked with the letters and number “**TS1**”, I have endorsed my name prior to the swearing hereof.

4. By way of background, [INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE].
5. I say that upon receiving my application for dispute resolution services, the Notice Party wrote to the Respondents and to me by letter dated [DATE] informing us that an adjudication hearing was scheduled to occur in respect of this dispute at [ADDRESS] on [DATE AND TIME].

I beg to refer to a copy of the said letter from the Notice Party to the Respondents dated [DATE] upon which marked with the letters and number “**TS2**”, I have endorsed my name upon prior to the swearing hereof.

6. I say that an adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that: [INSERT ADJUDICATOR’S DETERMINATION].

I beg to refer to a copy of the Adjudicator’s report, which marked with the letters and number “**TS3**” I have endorsed my name upon prior to the swearing hereof.

7. I say that by letters dated [DATE], the Adjudicator's report was forwarded by the Notice Party to the Respondents and to me. I beg to refer to a copy of the said letter dated [DATE] sent to the Respondents which marked with the letters and number "TS4", I have endorsed my name upon prior to the swearing hereof.

8. [IF APPLICABLE] I say that the Respondents appealed the decision of the Adjudicator, by appeal form received by the Notice Party on [DATE]. The grounds of appeal were inter alia that [INSERT DETAILS]. I say that by letters dated [DATE], the Notice Party notified the Respondents and me that a Tenancy Tribunal hearing would take place at [ADDRESS] on [DATE AND TIME] to deal with the Respondents appeal. I beg to refer to copies of said Appeal Form and letters dated [DATE] addressed to the Respondents upon which pinned together and marked with the letters and number "TS5" I have signed my name upon prior to the swearing hereof.

9. I say that a Tenancy Tribunal hearing took place as scheduled. Having heard the evidence of the parties, the Tribunal made the following determination - [INSERT TRIBUNAL DETERMINATION]

10. I say that the Tenancy Tribunal notified the Notice Party of its determination pursuant to s.108 of the Act and the Notice Party proceeded to make a Determination Order on [DATE] in accordance with s.121 of the Act.

I beg to refer to a copy of the said Determination Order dated [DATE] and Tenancy Tribunal Report upon which pinned together and marked with the letters and number "TS6", I have signed my name prior to the swearing hereof.

11. I say that by letters dated [DATE], the Notice Party forwarded the Determination Order and Tenancy Tribunal Report to the Respondents and me. [CHECK DETAILS OF LETTER].

I beg to refer to copies of the said letters dated [DATE] addressed to the Respondents upon which pinned together and marked with the letters and number "TS7" I have signed my name prior to the swearing hereof.

12. [IF APPLICABLE] I say that there was no appeal of the decision of the Tenancy Tribunal to the High Court and the Determination Order became binding on the expiry of the 21 day period. I say that the Respondents did not comply with the terms of the Determination Order [INSERT DETAILS OF NONCOMPLIANCE]. [IF APPLICABLE] – By letter dated [INSERT], I wrote to the Respondents noting their failure to comply with the Determination Order, and afforded the Respondents a 7 day period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice to them. I beg to refer to a copy of the letters dated [DATE] which pinned together and marked with the letters and number “TS8”, I have endorsed my name upon prior to the swearing hereof.
13. I say that notwithstanding the foregoing, the Respondents have failed to comply with the terms of the Determination Order [INSERT DETAIL]. I beg to refer to a Statement of Rent Arrears confirming that rent arrears up to [DATE] are in the sum of € [INSERT] upon which marked with the letters and number “TS9” I have signed my name prior to the swearing hereof. In these circumstances, I pray this Honourable Court for the relief sought in the Notice of Motion herein.

SWORN by the said **[TOM SMITH]** who is personally known to me or who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent this **[INSERT]** day of **[INSERT]** 20**[INSERT]** at

in the City of **[INSERT]** before me a Commissioner for Oaths/Practising Solicitor and I know the Deponent.

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit is filed by the Applicant this **[INSERT]** day of **[INSERT]** 20**[INSERT]**

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[CORK] CIRCUIT

[COUNTY AND CITY OF CORK]

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES and JACK JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF [TOM SMITH]

APPENDIX 6 - SAMPLE FORM AFFIDAVIT OF SERVICE

PLEASE NOTE: This draft should be amended to reflect the circumstances of the individual case.

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF SERVICE

I, [TOM SMITH] , [INSERT PROFESSION], of [ADDRESS], aged eighteen years and upwards, **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I say than on [INSERT DATE] I did serve a true copy of the following papers (together referred to as the “Motion Papers”) on the Respondent by [INSERT DETAILS OF SERVICE]:
 - a) Originating Notice of Motion returnable before [INSERT COUNTY] Circuit Court on [INSERT DATE];
 - b) Grounding Affidavit of [INSERT NAME] sworn on [INSERT DATE];
 - c) Exhibits [INSERT INITIALS]1 - [INSERT INITIALS][INSERT RELEVANT NUMBER OF LAST EXHIBIT] as referred to in the Affidavit of [INSERT NAME] sworn on [INSERT DATE].
3. [IF APPLICABLE] – [I beg to refer to a true copy of the above mentioned cover letter, upon which, marked with the letters and number “**TS1**” I have signed my name prior to the swearing hereof.]
4. [IF APPLICABLE] [I further say that as evidence of posting and delivery, I beg to refer to the An Post postal slip reference number **RL[INSERT REFERENCE NUMBER]IE** along with a print out from An Post confirming delivery of the said letter, marked with the letters and number “**TS2**” I have signed my name prior to the swearing hereof.] [AVAILABLE FROM AN POST]

SWORN by the said **[TOM SMITH]** who is personally known to me or who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent this **[INSERT]** day of **[INSERT]** 20**[INSERT]** at

in the City of **[INSERT]** before me a Commissioner for Oaths/Practising Solicitor and I know the Deponent.

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit is filed by the Applicant this **[INSERT]** day of **[INSERT]** 20**[INSERT]**

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

AFFIDAVIT OF SERVICE

**AN CHUIRT CHUARDA
THE CIRCUIT COURT**

RECORD NO.

[DUBLIN] CIRCUIT

[COUNTY AND CITY OF DUBLIN]

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES
ACT 2004**

BETWEEN:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent

-and-

Residential Tenancies Board

Notice Party

EXHIBIT “TS1”

As referred to in the Affidavit of [Tom Smith]
sworn on the [INSERT] of [INSERT] 201[INSERT]

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**



