

Application for **ORDER ENFORCEMENT**

Applications should be returned to
Order Enforcement Unit, RTB, PO BOX 47, Clonakilty
or
(scanned) by email to: enforceorder@rtb.ie

RTB Policy on Enforcement of Determination Orders

POLICY: The Board may pursue Court proceedings where parties fail to comply with its Determination Order. Decisions on whether or not to pursue legal enforcement are made on a case-by-case basis, taking into account the Board's own limited resources, the cost of taking legal proceedings and the likely success of achieving a favourable outcome for the requester.

IMPLEMENTATION: There is no legal obligation on the Board to enforce its Determination Orders; however it does so in various cases. The Board endeavours to secure enforcement initially by non-judicial means by writing to the non-compliant parties to remind them of their obligation to comply with the terms of the Order and requiring them to make arrangements to comply. If this approach is unsuccessful then the criteria the Board have regard to, in making a decision whether or not to pursue legal proceedings, include the following:

- Dispute type
- History of compliance with landlord/tenant legislation
- Technical strength of the case (e.g. parties may agree a matter that is not legally enforceable)
- What contact/steps, if any, the person seeking compliance has taken with the non-compliant party to obtain compliance of the Order
- Existing representations made by the RTB to the non-compliant party and relevant information obtained
- Geographical location
- Particular circumstances of the case
- Value for money evaluation
- Maximum of three cases per person per annum may be sanctioned
- Enforcement sanctioned only on a final outcome of all matters under dispute (e.g. if a notice of termination is invalid and a new one is required to be served, then requests for enforcement of the rent arrears will not be considered in isolation to a final outcome of all matters in dispute)
- If a party is as, or better, able to enforce than the RTB then they will be expected to undertake their own enforcement
- Overall number of cases sanctioned for enforcement will be limited to available budget in any given year

NOTE: Parties can take their own enforcement proceedings. No prior permission of the Board is required. The Board will assist parties taking their own proceedings by providing copies of all necessary documentation within the control of the RTB, if required. The RTB cannot take enforcement in all cases so parties in many cases will, inevitably, have to pursue their own enforcement. A step-by-step guide to enforcement proceedings is available to download from www.rtb.ie/CircuitCourtEnforcement.

Checklist:

- The compliance period on my Determination Order has expired
- I note and understand the RTB's Policy on Enforcement, set out above
- I have completed all mandatory sections, pages 3-4
- I have signed the Undertaking to support legal proceedings, should the Board sanction same, page 5 (*Please note: the Undertaking must be signed by party(s) in whose favour the Determination Order was made*)
- I have completed the financial statement on page 6 if my request is made due to a lack of financial resources
- A letter of authority is attached (if this request is made by a person not named on the Determination Order).

Procedure that will be applied by the RTB on receipt of your request form:

- Your application form will be evaluated for completeness and returned to you if any mandatory sections have not been completed.
- We will carry out a preliminary review of your case to determine if it falls into the priority category (overholding together with unpaid rent, unlawful eviction). If your case is deemed to be a priority case, it will be processed for the Board's consideration on receipt of your request. The RTB's Policy, as outlined on page 1 of this application, is applied to both priority and non-priority cases. Therefore, any priority applied to a case does not automatically mean that the Board are more likely to grant a request for enforcement in relation to a priority case. All cases deemed non-priority have unfortunately to wait a number of months before they are processed for the Board's consideration.
- Your request will be logged on the RTB system and will be put in a queue for further processing. Due to the volume of requests received each year, and the need to do a comprehensive review of the file, delays are to be expected.
- The RTB will issue a reminder letter to the non-compliant party(s) to inform them of their obligation to comply with the Order.
- Your case will be reviewed in detail and submitted to the Board of the RTB for their decision on whether or not they will take enforcement in your case.
- You will be informed in writing of the Board's decision. If your case does not fall into the priority category, you should expect between four to six months before you receive a decision on your request. The RTB will not provide you with regular updates; all available updates will be provided to you in writing.
- If the Board agrees to pursue enforcement on your behalf, your file will be referred to Solicitors acting on behalf of the RTB for further processing. Please note that the RTB, or Solicitors acting on behalf of the RTB, have no power to influence the Court's schedule. Please also note obtaining Court dates outside of Dublin can take between three to five months and this is outside the control of the RTB.

If, however, your request is declined, the RTB will close its file in your case. It will still be open to you to pursue your own enforcement.

Enforcement Request Details

PLEASE READ CAREFULLY: Enforcement by the RTB is discretionary under the Residential Tenancies Act 2004 and decisions on whether or not to pursue enforcement are made on a case-by-case basis in accordance with the RTB Enforcement Policy as set out on *page 1* and within resources available to the RTB. The RTB takes a limited number of enforcement cases per year. The RTB will first endeavour to secure compliance through non-judicial means by writing to the non-compliant party(s) and reminding them of their obligation to comply.

1. Case Ref No (*)

DR: -

2. Your details:

Name: (*)

Contact phone number: (*)

Address: (*)

Email:

3. The contact details of the non-compliant party /parties, if known:

(if the Order involves more than two non-complaint parties, please provide the details on a separate sheet)

Name: (*)

Contact phone number: (*)

Address: (*)

Name:

Contact phone number:

Address:

4. What steps have you taken to secure compliance with the terms of the Determination Order: (*)

Phone call Email Personal contact

Text message Letter Other, please provide details below

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5. As you are aware, it is open to you to seek your own enforcement through the Courts. That said, the Board does take a limited number of enforcement cases each year. In order for the Board to consider your request, please set out clearly the reasons why you cannot pursue your own enforcement (Please ensure that this section is accurately completed): (*)

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I have financial means to pursue my own enforcement: (*)

Yes No (Please complete the financial statement as provided on page 6)

6. Terms of the Determination Order non-complied with relate to: (*)

- | | |
|--|---|
| <input type="checkbox"/> Overholding | <input type="checkbox"/> Unlawful termination |
| <input type="checkbox"/> Damage above normal wear & tear | <input type="checkbox"/> Deposit Retention |
| <input type="checkbox"/> Rent Arrears | <input type="checkbox"/> Breach of Landlord Obligations |
| <input type="checkbox"/> Unpaid Utilities | <input type="checkbox"/> Breach of Tenant Obligations |

7. If the tenant was ordered to vacate the dwelling but continues to occupy the dwelling, is there an amount of rent outstanding? If so, please provide the up to date amount of rent owed:

€ as of (dd/mm/yyyy)

8. If the matter previously involved overholding but the tenant has now vacated the dwelling, please state the date the tenant vacated the dwelling and the arrears of rent owed at the date of vacation, if any:

Tenant vacated on (dd/mm/yyyy):

Rate of arrears at the date of vacation, (€):

Please note that to knowingly or recklessly provide false or misleading information to the Board is an offence under the Residential Tenancies Act 2004.

Signature: (*) Date: (*) (dd/mm/yyyy)

(*) mandatory fields.

Failure to complete all mandatory fields denoted with an (*) will result in this form being returned to you for completion and will delay your request being considered.

Undertaking to Support Enforcement Proceedings

I, _____ **[Insert Name]** of

_____ **[Insert Address]**

request the Residential Tenancies Board (“the RTB”) to undertake enforcement proceedings pursuant to its powers under Section 124 and/or Section 126 of the Residential Tenancies Act 2004 (“the Act”) at the discretion of the Board, against

_____ **[Insert Name of Non-Compliant Party]**

in respect of an alleged failure to comply with Determination Order

_____ **[Insert Case Reference]**

in respect of the tenancy at _____ **[Insert Address]**

I confirm that I will co-operate with these enforcement proceedings and provide such sworn statements as necessary and attend Court to give sworn testimony if required.

I understand and agree that should the RTB decide to proceed with enforcement on my behalf, it will have full discretion to make settlement decisions as it deems appropriate.

I understand that the RTB will incur costs in pursuing enforcement of this matter at my request. If I choose, without good cause, to withdraw my request or co-operation in advance of the matter proceeding to hearing in Court, I hereby **undertake** to re-imburse the costs incurred by the RTB at my request in the proceedings to that point, if required to do so by the Board.

I further understand and accept that the RTB may seek a contribution from me in respect of Sheriff’s fees which may be incurred on their instruction in certain over-holding cases.

Signed*: _____

Dated: _____

****To be signed by party(s) seeking enforcement as named on the RTB Order***

Financial Statement

- Please complete this statement if you seek the Board’s assistance due to your financial inability to pursue your own enforcement
- We may ask you to provide vouching evidence at a later time

Name:

Number in household: Adults Children, age/s:

Breakdown of income and expenditure: Weekly Monthly

1. Income (€):

	Wages/Salary (After Tax & Deductions)
	If Self-Employed, Previous Year Estimate
	Social Welfare
	Pensions
	Child Benefit
	Rental Income
	<i>Other Income (Please list below)</i>
	Total Income

3. Payments & Liabilities (€):

	Rent/Mortgage Arrears
	Property Tax Arrears
	Electricity Arrears
	Water Charge Arrears
	Loans
	Instalment Orders
	Court Fines
	Family Maintenance
	Hire Purchase for Car
	Other Priority Liabilities
	Other Secondary Liabilities
	<i>(Please list below).....</i>

2. Expenditure (€):

	Rent/Mortgage
	Insurance (Mortgage/Building/Contents)
	Property Tax
	Food/Housekeeping
	Electricity/Heat/Fuel
	TV Licence
	Waste Charges
	Water Charges
	Telephone/Other Utilities
	Transport Costs
	Education Cost
	Childcare
	Medical Costs
	Repairs and Maintenance
	<i>Other Expenditure (Please list below)</i>
	Total Expenditure

4. Available Income (€):

	Total Income (1) (Less)
	Total Expenditure (2)
	Total Available Income
	Total Available Income(Less)
	Payments & Liabilities (3)
	Total Available Income