

Application Form to Request Legal Assistance with Enforcing a Determination Order

The RTB may pursue court proceedings where parties fail to comply with its Orders. Decisions on whether 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

Enforcement is an important function of the Residential Tenancies Board. When landlords, tenants and third parties bring disputes to the RTB through mediation, adjudication or tribunal, they receive a legally binding Determination Order. The majority of these are complied with but where they are not, the RTB takes non-compliance with Determination Orders very seriously. The RTB endeavours to secure compliance initially by non-judicial means by writing to the non-compliant parties to remind them of the terms of the Order and requiring them to make arrangements to comply.

If this approach is unsuccessful, then the RTB will consider, on request from the party seeking compliance of the Order, whether to provide legal assistance to enforce the Order. **The Board of the RTB has set out the following policy and criteria in line with available budgets.**

The RTB will provide legal assistance for the following cases;

- ▶ Overholding / Overholding with Rent Arrears.
- ▶ Rent Arrears that are equal to or over €3,000 or 3 months' rent of the respective tenancy, whichever is less. Where the tenant is overholding, there is no requirement for a minimum of €3000 rent arrears to be outstanding.
- ▶ Deposit Retention greater than or equal to 50% of full deposit.
- ▶ Unlawful termination of tenancies including cases determined to be an abuse of the termination process.
- ▶ Overpaid rent in Rent Pressure Zone cases: where rent increases are more than 4% in a Rent Pressure Zone.
- ▶ Third-party cases with anti-social behaviour where damages are awarded.
- ▶ Cases where the non-compliant Party, has a history of breaching the Residential Tenancies Act.

Criteria where cases may not be awarded legal assistance from the RTB include;

- ▶ Value for Money threshold criteria - A minimum threshold of €400 (apart from deposit retention cases, although the sum to be enforced must represent 50% or over of the actual deposit)
- ▶ Where the RTB is satisfied that there are insurmountable service difficulties.
- ▶ Where there are terms of an agreement that are unenforceable in the Courts and/or are in contradiction of the Residential Tenancies Act.
- ▶ Where the landlord seeking compliance has not registered the tenancy with the RTB.

- ▶ If the applicant has not completed all the mandatory information in the Order Enforcement Application form.
- ▶ If the applicant has exceeded the maximum of 5 order enforcement cases per year where the applicant is in receipt of legal assistance for enforcement.
- ▶ If an agreement is reached in contravention with the Rent Pressure Zone criteria.
- ▶ If the requesting party has outstanding Determination Orders that s/he has not complied with.
- ▶ If settlement is agreed and subsequently complied with, then the case for legal assistance will not go forward and/or will be withdrawn.

The RTB may take a percentage of cases that fall outside of the definitive criteria where hardship or other extenuating circumstances warrant consideration. These will be considered on a case by case basis where there is funding available within the RTB budget.

RTB and Legal Assistance for Enforcement – Our Strategy

The RTB will take a large amount of the requested enforcement cases, but it does not have the budget to take them all forward. To provide legal assistance to people enforcing Determination Orders in the District Court, the RTB established a panel of Solicitors, local to each District Court, who have agreed to enforce orders on their behalf.

The RTB has an annual budget to provide legal assistance to those seeking to enforce its Orders. The RTB assists as many as possible within this budget but cannot provide legal assistance all who request it. While the budget for RTB activities is still limited, it is expected that by reducing the cost of enforcement proceedings, the RTB will be able to provide legal assistance in a higher number of cases, based on the prioritisation of cases as set out in this policy document.

Enforcing your own Determination Order – Self-enforcement

Parties can take their own enforcement cases directly to the courts. A very useful Guide to Enforcement in the District Court is available on our website,

https://onestopshop.rtb.ie/images/uploads/general/RTB_Guide_to_taking_Enforcement_Proceedings_A5_FINAL_VERSION.pdf.

The RTB is here to help you with self-enforcement and our staff will provide all possible assistance to a party that wishes to pursue their own enforcement case to the Court including providing, where possible the necessary documentation and proofs required by the courts.

The compliance period in the Determination Order must have ended before enforcement can be taken.

If you wish to request the RTB assist you to pursue enforcement, you can:

email enforceorder@rtb.ie or call our helpline on **0818 30 30 37** or lo call **01 7028100** between 8.30 am to 6.30 pm to speak to our customer care team.

The RTB respects your privacy and is committed to complying with Data Protection law. For information on how the RTB handle your personal data, please refer to the RTB Privacy Statement at <https://onestopshop.rtb.ie/privacy-statement>

To assist us in dealing with your request in a prompt manner, please review the below checklist to ensure that you have completed all sections with the required information.

- 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 4-6**
- I have signed the Undertaking to Support Enforcement Proceedings, should the RTB sanction same, page 5 (please note: the Undertaking must be signed by the party(s) in whose favour the Determination Order was made)**
- A letter of authority is attached (if this request is made on your behalf 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 request to determine if it falls into the priority categories e.g. (overholding, overholding together with unpaid rent, serious rent arrears, unlawful termination, and retained full deposits). If your case is deemed to be a priority case, it will be dealt with first. If your request is not deemed to be a priority case under the above criteria your request will be logged and will be put in a queue for further processing. All cases will be dealt with as soon as possible in order of date of receipt. Due to the volume of requests received each year, and the time it takes to process a case for a decision, regrettably it may take some time before a decision is made on cases. We constantly review our practices in order to ensure we are operating in an efficient and effective manner.
- ▶ The RTB will issue a reminder letter to the non-compliant party(s) to inform them of your request and their legal obligation to comply with the Determination Order.
- ▶ Your case will be reviewed in detail in light of the Board's Policy and a decision will be made as to whether or not enforcement assistance will be granted in your case.
- ▶ You will be informed in writing of the decision. Our priority is to process cases as quickly as possible and in order to do this it is not possible to provide you with regular updates. All relevant updates will be issued to you by email or by letter.
- ▶ If the RTB agrees to provide you with assistance, we will write to you enclosing a list of solicitors in the locality of the disputed dwelling who have agreed to undertake enforcement proceedings in the District Court on your behalf. These proceedings will be funded by the RTB.
- ▶ If the RTB declines your request, you will receive a letter from the RTB outlining the options still open to you to enforce your Determination Order. Unfortunately as we are operating within a predetermined budget the RTB cannot assist in all cases.

Enforcement Request Details

Please read carefully: Enforcement by the RTB is discretionary under the Residential Tenancies Act 2004. Decisions on whether or not to assist parties in pursuing enforcement are made on a case-by-case basis in accordance with the RTB Enforcement Policy as set out on pages 1 and 2 and within the resources available to the RTB. The RTB takes non-compliance with its Orders seriously and has, over the years, agreed to take a sizeable number of enforcement cases per year. As outlined above, the RTB will issue a reminder letter to the non-compliant party(s) to inform them of your request and their legal obligation to comply with the Determination Order. Court proceedings may follow if they fail to comply resulting in judgements being registered against them which can have serious future consequences, for example, in regard to securing loans.

Case Ref No (*)

DR: -

1 Details of party/parties seeking compliance:

(If the Determination Order is made in favour of more than one party, please ensure that all parties sign where indicated on pages 4 and 5)

Name: (*)

Contact phone number: (*)

Address: (*)

Email:

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

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

Name: (*)

Contact phone number: (*)

Address: (*)

Email:

Name:

Contact phone number:

Address:

Email:

3 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

4 If there is further information that you wish to be considered please state this briefly below.

5 Terms of the Determination Order not complied with relate to: (*)

- | | |
|--|---|
| <input type="checkbox"/> Overholding | <input type="checkbox"/> Unlawful termination |
| <input type="checkbox"/> Damage in excess of 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 |
| <input type="checkbox"/> Rent increased in contravention of rent pressure zone legislation | |

6 If the Determination Order awards you Rent Arrears please provide both the up to date amount of rent owed and the number of months of rent owed:

Amount of rent € as of (dd/mm/yyyy)

Number of months

7 If you have vacated the property and the Determination Order states that your deposit has been unjustly retained please provide the amount retained and the original full deposit amount below:

Amount retained:

Original full deposit amount:

If the Determination Order awards you an amount other than Rent Arrears or Deposit Retention, please provide the amount below:

Total amount awarded to you in the Determination Order:

Please note that to knowingly or recklessly provide false or misleading information to the RTB 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, the RTB cannot process requests that are not completed.

Undertaking to Support Enforcement Proceedings

I, **[Insert Name]**

of **[Insert Address]**

request the Residential Tenancies Board (“the RTB”) to provide me with assistance that will allow me to undertake enforcement proceedings, pursuant to its powers under Section 124 of the Residential Tenancies Act 2004 as amended against **[Insert Name of Non-Compliant Party]**

in respect of an alleged failure to comply with a Determination Order Reference No

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 assist me with enforcement, I will be obliged to engage a Solicitor from a Panel set up by the RTB for the purpose of taking enforcement through the District Court. I understand that I am required to contact a solicitor within 30 days of the date of issue of the RTB Offer Letter unless there are good and substantial reasons why I cannot do this.

I understand that the RTB will incur costs in providing assistance to me in enforcement of the Determination Order. If I choose, without good cause, to withdraw my request or co-operation in advance of the matter settling or 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 overholding cases.

Signed*:

Dated:

***To be signed by party(s) seeking enforcement as named on the RTB Determination Order. If the Determination Order is made in favour of more than one party, please ensure that all parties sign here.**