

Guide to Making a Complaint



Bord um Thionóntachtaí Cónaithe
Residential Tenancies Board

About Us

What is the Residential Tenancies Board?

The Residential Tenancies Board, also known as the RTB, is a public body set up to support and develop a well-functioning rental housing sector. Our remit extends to the private rental, Approved Housing Bodies (AHB) and Student Specific Accommodation (SSA) sectors. Our role is to regulate the rental sector, provide information and research to inform policy, maintain a national register of tenancies, resolve disputes between tenants and landlords, initiate an investigation into Improper Conduct by a landlord, and provide information to the public to ensure tenancies run smoothly and no issues arise.

What We Do



Information, Research and Education

The RTB provides high-quality information and assistance to landlords, tenants and the public on their rental rights and responsibilities, both in terms of living in and providing accommodation in the rental sector. We also provide accurate and authoritative data on the rental sector, such as the Quarterly Rent Index, which allows us to monitor trends in the rental sector, but also allows individuals to check and compare rents in particular locations.



Registrations

All private residential landlords, Approved Housing Bodies (who are not-for-profit housing providers, often referred to as Housing Associations) and landlords of Student Specific Accommodation must register their tenancies with the RTB. You can search to see if a tenancy is registered on the RTB website. The registration of tenancies enables us to collect important data on the sector. It is also a key part of regulating and supporting the sector and ensuring that landlords and tenants are aware of their rights and responsibilities.



Dispute Resolution

Since 2004, the RTB replaced the courts in dealing with the majority of disputes between landlords and tenants through our Dispute Resolution Service. This service offers a choice of resolution types to parties – Telephone Mediation or Adjudication – and the option to appeal through a Tenancy Tribunal.



Investigations and Sanctions

In July 2019, the RTB was given new powers to investigate and sanction landlords who engage in certain breaches of rental law, such as unlawfully setting the rent in an RPZ above 4% or ending a tenancy by citing a reason which the landlord did not ultimately act on, amongst others. Investigations can commence either on the basis of information received from a member of the public or proactively by the RTB on the basis of information available to us under the Residential Tenancies Act. Sanctions include a formal written caution and/or a fine of up to €15,000 and/or costs of up to €15,000.

For more information about the RTB and our services, please visit www.rtb.ie.

About this Guide

The purpose of this Guide is to help a member of the public complete a Complaint Form and understand what happens during an investigation. It outlines the powers the RTB has in relation to carrying out an investigation and gives an overview of the steps involved in the investigation process. This Guide also highlights key terms and elements of the process.

If you wish to make a Complaint about suspected Improper Conduct by a landlord, reading this Guide will support you in navigating the process.

This document serves as a guidance to members of the public on the key provisions of the Investigations and Sanctions process and should be read in conjunction with the Residential Tenancies Act 2004 - 2019 which is available at www.rtb.ie. Even though care has been taken in the preparation and publication of this document, the Residential Tenancies Board, its servants or agents assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided in this document and do not accept any liability whatsoever arising from any errors or omissions contained therein.



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1.

Before Making A Complaint

1.1 Who can make a Complaint?

A Complaint can be made by anyone who believes that a landlord has breached certain aspects of tenancy law. A Complaint might be made by:

- ▶ A current or former tenant of the landlord
- ▶ A representative body
- ▶ Another statutory body working with landlords or tenants
- ▶ A public representative
- ▶ A neighbour or concerned party residing near a tenancy
- ▶ Another landlord or letting agent

1.2 What can I make a Complaint about?

The RTB can only investigate certain breaches in rental law which have occurred after 1st July 2019 when relevant legislation came into effect. For instance, if the breach is in relation to rent unlawfully being raised above 4% in a Rent Pressure Zone (RPZ), the rent must have been raised after 1st July 2019; if the breach is in relation to a false or misleading reason cited in a Notice of Termination, the Notice of Termination must have been issued after 1st July 2019; and if the breach is in relation to non-registration, the tenancy must have been unregistered after 1st July 2019.

Rent Related Breaches

An RPZ is a designated area where rents cannot be increased by more than 4% per year. This applies to new and existing tenancies unless an exemption applies. The following breaches related to RPZs can be investigated:

- a) Failure to comply with the Rent Pressure Zone (RPZ) requirements. This occurs by increasing rent by more than 4% in an RPZ in a 12-month period (or a 24-month period for an existing tenancy in an area newly designated as an RPZ).
- b) Seeking to rely on an exemption to the RPZ requirements, which does not comply with those requirements. For instance, falsely claiming that a substantial change in the nature of the accommodation occurred or that no tenancy existed in the property in the two years before the tenancy commenced.
- c) Failure to notify the RTB about the reliance on an exemption to the RPZ requirements within one month from the setting of the rent.

To check if a tenancy is within a Rent Pressure Zone or if the rent has been lawfully set, a Rent Pressure Zone calculator is available on the RTB website: www.rtb.ie

Registration Related Breaches

- d) Failure to register a tenancy with the RTB. Landlords are obliged to register their tenancies with the RTB within one month of the tenancy commencing.
- e) Failure to notify the RTB of changes to certain tenancy details (including new rent set, tenant details, landlord details) within one month from an alteration/change of the rent payable under a tenancy.

Check if a tenancy is registered on the RTB website www.rtb.ie. You may need to try variations of the address as this may impact search results. If you still have concerns, you can call the RTB on 0818 30 30 37.

Tenancy Termination Related Breaches

- f) Citing in a Notice of Termination a reason for terminating the tenancy that is false or misleading in a material respect.
- g) Failure to offer a tenant their tenancy back when it was ended for certain reasons (detailed below), where:
 - the tenant provided their contact details to the landlord, in writing, within 28 days from the date of service of the Notice of Termination or on the final Determination Order of a dispute, if relevant;
 - the tenancy was not otherwise validly terminated;
 - the reason for terminating the tenancy is no longer applicable/relevant;
 - the property is available for reletting within the timeframes set out below from the date the Notice of Termination expired:

| Reason for Termination | Timeframe |
|---|-----------------------|
| The landlord intends to sell the property. | 9 months |
| The landlord or a member of the landlord's family intends to occupy the property. | 12 months |
| The landlord intends to substantially refurbish/renovate the property. | when completed |
| The landlord intends to change the use of the dwelling. | 12 months |

1.3 Can the RTB investigate a landlord without a Complaint?

The RTB may also start an investigation on our own volition where the RTB has reason to believe that Improper Conduct by a landlord may have occurred or is occurring.

A person who is concerned that a landlord has breached the law can also report a matter by calling our unrecorded line on 0818 776297 or 01 6753724 or by emailing investigations@rtb.ie. This route is referred to as a Concern and is different to making a Complaint, which is explained further down this document.

If an investigation commences on foot of information provided by a member of the public, the content of an email or letter or the note of a phone call may be shared with a landlord as part of the investigation process. The name and the contact details of the person providing the information will not be shared.

The RTB will assess this information and **may** start an investigation. The person providing the information will not be updated on the progress of any investigation which may arise.

1.4 What is the difference between an Investigation and a Dispute?

A registered landlord and any tenant can make an application for Dispute Resolution. This process seeks to resolve disputes between parties in a current or former tenancy through Adjudication or Telephone Mediation. The disputes process can look at a wide range of tenancy issues, including rent reviews (both inside and outside Rent Pressure Zones), rent arrears, deposits, repairs, ending a tenancy and other breaches of rental obligations. Damages can be awarded to case parties in a dispute.

The investigation process is a regulatory function, which aims to secure compliance by landlords. An investigation can be triggered by a Complaint or by the RTB's own volition through open source information or information available to the RTB. The submission of a Complaint is not confined to tenants and can be made by anyone. An investigation can only look into certain breaches of tenancy law related to the setting of rent in a Rent Pressure Zone, the registration of a tenancy and certain aspects of tenancy termination. An Authorised Officer will carry out an investigation and will gather evidence from all relevant parties. A hearing may take place if the Authorised Officer decides it is necessary. Any financial sanction made against a landlord is payable to the Exchequer only.

The RTB's Dispute Resolution Service and the Investigations and Sanctions process are not connected. If a tenant has a concern with the **validity of a Notice of Termination**, they should apply **for Dispute Resolution** within 28 days of receiving the Notice. Any issue other than those set out in Section 1.2 above, for example the recovery of a deposit or the standard and maintenance of a property, should also be referred through the RTB Dispute Resolution process. Making a Complaint and the investigation process does not have any impact on when a tenancy can end.

2.

Completing the Complaint Form

2.1 How do I make a Complaint?

A Complaint Form is available on the RTB's website (www.rtb.ie).

You should read the form carefully, complete it in full and provide as much information as possible to assist the RTB in processing your Complaint. You should also submit any relevant supporting documents. The completed Complaint Form and any relevant documents should be returned to the RTB by emailing investigations@rtb.ie or posting to Residential Tenancies Board, PO Box 47, Clonakilty, Cork.

2.2 What documents should I submit with my Complaint?

You should include any documents you believe are relevant and which support your Complaint. Some typical documents would include:

- ▶ Notice of tenancy termination and Statutory Declaration, where applicable
- ▶ Notice of rent review
- ▶ Copy of a current or previous tenancy agreement
- ▶ Emails/text messages with the landlord
- ▶ Copies of any letting advertisements viewed

Please note that the investigation process is a standalone function in the RTB. If you have submitted documents to other Business Units of the RTB, these documents **will not** be forwarded or transferred to the Investigations and Sanctions unit. Please also note that any submissions made may also be sent to the landlord with the Complaint Form if an investigation takes place.

2.3 Is there a fee to make a Complaint?

No. There is no fee, at any stage, to submit a Complaint to the RTB Investigation and Sanctions unit.

3.

After a Complaint is Made

3.1 What happens after I make a Complaint?

After you submit a Complaint you will receive an acknowledgement by email or letter. Each Complaint is assessed and if necessary, you may be contacted to clarify some details or provide additional information. An investigation will then commence unless one of the specific issues outlined below applies. The Authorised Officer will update you on the progress of the investigation at certain stages and you may also receive copies of certain documentation.

3.2 Why would a Complaint not be investigated?

A Complaint may not be investigated for the following reasons:

- ▶ There is insufficient information in the Complaint. We will contact you to seek further information, if required, so please ensure to provide your contact details on the Complaint Form.
- ▶ The matter stated in the Complaint Form is not something that can be investigated (please see Section 1.2 above for details on breaches which can be investigated).
- ▶ The breach occurred before 1st July 2019 when relevant legislation came into effect. For instance, if the breach is in relation to rent being unlawfully raised above 4% in a RPZ, the rent must have been raised after 1st July 2019; if the breach is in relation to a false or misleading reason cited in a Notice of Termination, the Notice of Termination must have been issued after 1st July 2019; if the breach is in relation to non-registration, the tenancy must have been unregistered after 1st July 2019.
- ▶ The matter is better suited to the RTB's Dispute Resolution process. If an issue of concern cannot be investigated, you may still be able to avail of the Dispute Resolution process.
- ▶ The Complaint is frivolous, vexatious or without substance or foundation.
- ▶ The Complaint is not made in good faith.

3.3 What happens if my Complaint does not lead to an investigation?

We will write to you to explain why an investigation cannot commence and outline any other options available to you in accessing other RTB supports or services.

We are also legally obliged to write to the landlord to inform him/her that a Complaint was received but will not be proceeding. If the Complaint does not proceed to investigation, the Complaint Form is not sent to the landlord and your name and contact details are not shared with the landlord.

3.4 If my Complaint leads to an investigation, will the landlord know I made a Complaint?

Yes. If an investigation commences, the landlord will receive a copy of the Complaint Form. Your personal contact details will not be provided to the landlord, but he/she will be aware of the name of the person who made the Complaint (the complainant).

3.5 What happens if I withdraw my Complaint?

You are free to withdraw your Complaint. However, the RTB can, on its own volition, choose to commence or continue an investigation against the landlord if we believe there is good reason for doing so. If a Complaint is withdrawn before an investigation has commenced, the landlord **will not** be informed of the original Complaint in that instance.

4.

The Investigation Process

4.1 Who carries out an investigation?

Authorised Officers carry out the investigation into the matters raised in a Complaint. Authorised Officers are staff of the RTB and have significant powers and legal independence to carry out the investigation. Authorised Officers are assigned to specific investigations and you will be notified of the name(s) of the Authorised Officer(s) who are conducting an investigation.

4.2 What happens during an investigation?

The Authorised Officer will gather all necessary evidence and documents during the course of an investigation. The Authorised Officer will contact all relevant parties as needed in order to investigate a Complaint fully. An investigation may also include interviews, and/or an Oral Hearing, as needed.

4.3 Will I have to attend an Oral Hearing?

Possibly. Many investigations will not require an Oral Hearing and one would only be arranged at the discretion of the Authorised Officer or later by the Decision Maker. If a Hearing is required, the Authorised Officer or Decision Maker will decide who is required to attend. The RTB will arrange any supports required including translation.

4.4 Are Hearings held in public?

No. If a Hearing takes place, it is private and confidential to those in attendance.

4.5 Will I be kept updated on the progress of an investigation?

Yes. At certain key stages, the person who made the Complaint, also known as the complainant, will be updated and will receive relevant documents. However, a person who has raised a Concern by calling the RTB's unrecorded line or emailing investigations@rtb.ie referenced in Section 1.3 and has not lodged a Complaint, will not be updated on any investigation that may follow as a result of the information provided.

4.6 What happens at the end of the investigation?

A draft Investigation Report will be prepared by the Authorised Officer, which will be sent to the landlord and the complainant. This report will outline whether the Authorised Officer is satisfied that the landlord has breached the law and provide reasons for their conclusion. The Investigation Report does not make any recommendation about what sanction, if any, should follow. Both the landlord and complainant have the opportunity to submit their comments in response to the draft Investigation Report. The final Investigation Report is forwarded to the Decision Maker who reviews the documents and decides on a sanction, if any.

4.7 Who is the Decision Maker and what is their role?

The RTB has a panel of independent Decision Makers from which an individual Decision Maker will be appointed to an investigation. Decision Makers are not employees of the RTB. The Decision Maker will receive the Investigation Report and relevant documents and decide on what sanction, if any, should follow.

4.8 What sanctions might be made against a landlord?

The Decision Maker can decide to either dismiss the Complaint, require the RTB to investigate the matter further or apply a sanction. A sanction can range from a caution to a penalty of up to €15,000. A Decision Maker also has discretion to award additional costs against the landlord, on top of the penalty, of up to €15,000. These financial penalties are payable to the Exchequer and **not** the person who made the Complaint.

4.9 How long will the process take?

This depends on a number of factors including the cooperation of all involved with the investigation, the complexity of the issues and whether a landlord acknowledges the alleged breaches. If a landlord admits to the breach of obligations in question, the investigation phase of the process will be shorter. Any sanction imposed must also be confirmed in the Circuit Court and the time frame for this part of the process is not fully in the control of the RTB.

5.

Additional Information

5.1 Can I contact the RTB for help?

Please note that the RTB is not an advisory body but it can provide information and guidance on the process. Please email investigations@rtb.ie or call 0818 776297 or 01 6753724 if you have any queries.

5.2 RTB Contact Information

Investigations and Sanctions Unit

- ▶ Telephone: 0818 776297 or 01 6753724
- ▶ Email: investigations@rtb.ie
- ▶ Post: Residential Tenancies Board, Investigations and Sanctions, PO Box 47, Clonakilty, Co. Cork

Dispute Resolution Service

- ▶ Telephone: 0818 303037 or 01 7028100
- ▶ Email: disputes@rtb.ie
- ▶ Post: Residential Tenancies Board, Dispute Resolution, PO Box 47, Clonakilty, Co. Cork

Website: www.rtb.ie

