

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.

The Board of the RTB has set out a policy and criteria for enforcement of Determination Orders in line with an available budget and can be found on page 6 of this Application Form.

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's Policy on Enforcement

A full copy of the RTB's policy on enforcement is available on our website here:

https://www.rtb.ie/images/uploads/general/RTB_Policy_on_Enforcement_of_Determination_Orders_Aug_2021.pdf

Enforcing your own Determination Order – Self-enforcement

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

https://www.rtb.ie/images/uploads/forms/Application_request_legal_assistance_enforcing_Determination_Order.pdf

The RTB may 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.

Any compliance period in the Determination Order must expire before enforcement can be taken

If you wish to request RTB Legal Assistance to assist you to pursue enforcement, complete the below application and email a scanned copy to enforceorder@rtb.ie or post it to PO Box 47, Clonakilty, Co Cork

The RTB respects your privacy and is committed to complying with Data Protection legislation. For information on how the RTB handles your personal data, please refer to the RTB Privacy Statement at www.rtb.ie

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 one of our priority categories (e.g., overholding, serious rent arrears, unlawful termination, and retained full deposits etc.). If your case is deemed to be a priority case, it will be dealt with at the first opportunity. If your request is not deemed to be a priority case your request will be placed in a queue for further processing when a case officer next becomes available. 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 it can take some time before a decision is made on cases.
- When processing requests for Legal Assistance, the RTB will issue a reminder letter to a non-compliant party to inform them of your request and their legal obligation to comply with the Determination Order.
- Your case will be reviewed in detail considering the Board's Policy and a decision will be made as to whether Legal 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 to do this it is not possible to provide you with regular updates. All relevant updates will issue to you by email or by letter.
- If the RTB agrees to provide you with Legal, we will allocate your case to a firm of solicitors who have agreed to undertake enforcement proceedings in the District Court on your behalf. These proceedings, as outlined in our letter to you, will be funded by the RTB.
- If the RTB declines your request, you will receive a letter from the RTB to inform you of this decision and outlining some options still open to you to enforce your Determination Order.
- As we are operating within a predetermined budget it is not possible for the RTB to approve all requests for Legal Assistance.

Enforcement Request Details

Please read carefully: Decisions on whether to assist parties in pursuing enforcement are made on a case-by-case basis in accordance with the RTB Enforcement Policy as provided on our website (link provided above) and within the resources available to the RTB. The RTB takes non-compliance with its Orders very seriously and approves a sizable number of enforcement cases for Legal Assistance each 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, regarding securing loans.

Case Ref No (*)

DR: -

1. Your details:

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 details on a separate sheet)

Name: (*)

Contact phone number: (*)

Address: (*)

Name:

Contact phone number:

Address:

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 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 |

6. 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:

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 (€):

Please note that to provide false or misleading information, knowingly or recklessly, 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 provide me with Legal Assistance that will allow me to take 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 with the solicitor allocated by the RTB for the purpose of taking enforcement through the District Court.

I understand that the RTB will incur costs in aiding 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 over-holding cases.

Signature: (*)

Date: (*)

(dd/mm/yyyy)

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

THE RTB WILL PROVIDE LEGAL ASSISTANCE FOR THE FOLLOWING CASES:

- Overholding / Overholding with Rent Arrears based on a Determination Order requiring vacant possession.
- Rent Arrears that are equal to or over €3,000 or 3-months' rent of the respective tenancy, whichever is less.
- Deposit Retention greater than or equal to 50% of full deposit, or €400, whichever is less amount.
- 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 statutorily permitted.
- Third-party cases with anti-social behaviour where damages are awarded.
- Cases where a non-compliant Party has a history of breaching the Residential Tenancies Act.

SOME CRITERIA WHERE CASES MAY NOT BE AWARDED LEGAL ASSISTANCE FROM THE RTB INCLUDE

- Value for Money threshold criteria - A minimum threshold of €400 (except for deposit retention cases).
- Where the RTB is satisfied that there are insurmountable service difficulties.
- Geographical location - where the non-compliant party resides outside this jurisdiction. The RTB will consider the cost involved in seeking to obtain an order in another jurisdiction together with the likelihood of achieving a successful outcome.
- Where there are terms of an agreement that are unenforceable in the Courts or contradict the provisions of the Residential Tenancies Act.
- Where the landlord seeking compliance has not registered the tenancy with the RTB.
- If an applicant has not completed all the mandatory information required in the Legal Assistance application form.
- If the applicant has exceeded the maximum of 5 order enforcement cases per year where the applicant was in receipt of legal assistance for enforcement.
- If an approved housing body (AHB) applicant has exceeded the maximum of 10 order enforcement cases per year where the AHB applicant was in receipt of legal assistance for enforcement.
- Where a party seeking or granted Legal Assistance is found to have failed to comply with their obligations under the Residential Tenancies Act, the RTB may refuse or rescind an offer of Legal Assistance.