

RTB Policy on Enforcement of Determination Orders:

Policy

Section 124 of the Residential Tenancies Act allows the Board to make an application to enforce a Determination Order, but it does not place a duty on the RTB to do so. In addition to this, the Board can provide Legal Assistance to a party seeking to take enforcement proceedings in the District Court, subject to the terms of this policy. Decisions on whether to grant Legal Assistance are made on a case-by-case basis, considering if the circumstances of a case meets the Board's criteria on granting Legal Assistance and considering 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 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. Where the tenant is overholding, there is no requirement for a minimum of €3,000 rent arrears to be outstanding. This based on a Determination Order requiring vacant possession.
- 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 that 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.

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

- Value for Money threshold criteria - A minimum threshold of €400 (with the exception of deposit retention cases, as above)
- 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 give due consideration to the cost involved in seeking to execute an enforcement Order in another jurisdiction together with the likelihood of achieving a successful outcome.
- Excessive Legal Cost – where, due to extenuating circumstances of a case, the cost of an application exceeds the average cost together with the likelihood of achieving a successful outcome.
- 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 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 is 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 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.
- 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.

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 to 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 RTB Legal Assistance to assist you too pursue enforcement, you can:

email enforceorder@rtb.ie

call RTB customer services on **0818 30 30 37** between 8.30 am to 6.30 pm to speak to our customer care team.