

RTB Policy on Enforcement of Determination Orders



Enforcement is an important function of the Residential Tenancies Board (RTB). When landlords, tenants and third parties bring tenancy disputes to the RTB through mediation, adjudication, or a tribunal, they receive a legally binding Determination Order (DO). The majority of these are complied with but where they are not, the RTB takes non-compliance with DOs very seriously. The RTB seeks to secure compliance initially by non-judicial means by writing to the non-compliant parties to remind them of the terms of the DO 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 DO, whether to provide Legal Assistance to enforce the DO.

RTB Policy

Section 124 of the Residential Tenancies Act allows the RTB to make an application to enforce a Determination Order, but it does not place a duty on the RTB to do so. In addition, the RTB 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. The RTB considers the following when deciding to provide Legal Assistance:

- ▶ The circumstances of a case and whether it meets criteria for granting Legal Assistance;
- ▶ The RTB's limited resources;
- ▶ The cost of taking legal proceedings; and
- ▶ The likely success of achieving a favourable outcome for the requester.

Furthermore, the RTB's Board has set out the following policy and criteria for when the RTB will grant Legal Assistance, 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 three 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 is based on a Determination Order requiring vacant possession.
- ▶ Deposit retention greater than or equal to 50% of the full deposit, or €400, whichever amount is lower.
- ▶ 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.

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, as above).
- ▶ Where the RTB is satisfied that there are insurmountable service difficulties.
- ▶ Geographical location where the non-compliant party lives 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 five Determination Order enforcement cases per year where the applicant is already in receipt of Legal Assistance.
- ▶ If an Approved Housing Body (AHB) applicant has exceeded the maximum of 10 Determination Order enforcement cases per year where the AHB applicant is already in receipt of Legal Assistance.
- ▶ 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.
- ▶ 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 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.

The RTB's Strategy for Legal Assistance for Enforcement

The RTB takes 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 the DOs on their behalf.

The RTB has an annual budget to provide Legal Assistance to those seeking to enforce its DOs. 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 here www.rtb.ie.

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 to pursue enforcement, you can:

email enforceorder@rtb.ie or
call RTB customer services on **0818 30 30 37** between 9.00 am to 5.30 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 www.rtb.ie/privacy-statement