

Guidance for landlords and tenants on rent arrears as a result of COVID-19 in the emergency period ¹



Part A

Background

From the 1st of August 2020, the Residential Tenancies and Valuation Act 2020 sets out new protections for tenants who have fallen into rent arrears, and as a result, are at risk of losing their tenancy. The Act recognises the impacts of rising unemployment or reduced working hours amongst those living in the residential rental sector as a result of Covid-19, and acknowledges the adverse impact on the ability of those impacted to meet their obligations to pay rent.

The new protections are in place until 10th January 2021 for tenants who are, or were at any stage since 9th March 2020, unable to pay their rent due to Covid-19 and as a consequence, are at significant risk of losing their tenancy.

If the tenant meets the criteria outlined in Step 5 below, they are not required to vacate their accommodation before the 10th of January 2021 and are not required to pay an increase in rent until after the 10th of January 2021.

Further information and guidance on what steps are required for landlords and tenants under the Residential Tenancies and Valuation Act 2020 are contained in this document.

New rent arrears procedure

There are eight steps which all tenants and landlords must follow if they find themselves in rent arrears. Failure to adhere to the steps as set out will lead to a Notice of Termination being deemed invalid.

Step 1: A landlord must issue a warning notice to the tenant to pay back the rent arrears

Where a tenant has fallen into rent arrears, they should contact their landlord to see if the issue can be resolved or a mutually satisfactory agreement can be reached. Please see further information and examples of agreement templates to aid tenants and landlords in reaching their own payment plans on www.rtb.ie. If it is not possible to resolve the issue of arrears, the landlord can proceed to serve a written rent arrears warning notice to give the tenant **a minimum of 28 days to pay the rent arrears**.

A landlord must serve a written rent arrears warning notice; an email or text message will not suffice. The warning notice must set out the full amount of rent arrears owed by the tenant and explain that failure to pay 100% of the monies owed within the time provided will result in a Notice of Termination being served.

The RTB has a new sample warning notice for rent arrears, which can be found on www.rtb.ie and on Part B of this document.

¹ This is not a legal document and you should refer to the Residential Tenancies Acts 2004 to 2020. This is intended as a guide only. The RTB accepts no responsibility for inaccuracies, errors, or omissions.

Step 2: Landlords must serve a copy of the written rent arrears warning notice to the RTB

There is a new responsibility for landlords to **provide a copy of the 28-day written rent arrears warning notice that was served on the tenant to the RTB**. When issuing a warning notice, a landlord must send a copy to the RTB as soon as possible. The 28-day period will count from the date when both the tenant and the RTB have received the warning notice, so landlords are encouraged to send both notices at the same time. A sample warning notice for rent arrears can be found in Part B of this document and on www.rtb.ie.

Please note that failure to submit a copy of the warning notice to the RTB will invalidate any related Notice of Termination.

Step 3: RTB will write to the landlord and tenant upon receipt of the warning notice

The RTB will write to the landlord acknowledging receipt of the written rent arrears warning notice.

The RTB will also write to the tenant confirming that the RTB received a copy of the written rent arrears warning notice that was served on them and will provide information on income supports, availability of advice from the Money Advice and Budgeting Service (MABS), as well as providing them with a link to the Self-Declaration form should they need to use it. In its communication with the tenant, the RTB will also seek **consent** from the tenant to permit the RTB to contact MABS in relation to the tenant's rent arrears.

The tenant will be encouraged to contact the RTB as soon as possible in the 28-day period following receipt of the rent arrears warning notice and prior to the warning notice period expiring to reduce the risk of terminating the tenancy.

Step 4: Tenant provides consent to the RTB to assist them in obtaining MABS Advice

Where a tenant grants consent to the RTB, the RTB will assist the tenant in obtaining MABS advice.

Tenants are not obliged to complete this step, but engagement with MABS is recommended. It is hoped that the majority of tenancy arrears situations will be resolved at this stage in the process.

Step 5: Where applicable, the tenant completes and submits a Self-Declaration form to the RTB and sends a copy to their landlord

New protections are in place until 10th January 2021 under the Residential Tenancies and Valuation Act 2020 for tenants who are currently, or at **any stage between 9th March 2020 and 10th January 2021**, unable to pay their rent due to Covid-19 and as a consequence, are at significant risk of having their tenancy ended. These protections came into effect on 1st August 2020.

If the tenant meets the below criteria, they are not required to vacate their accommodation before the 10th of January 2021 and are not required to pay an increase in rent during the period up to the 10th of January 2021.

To be able to avail of these protections, tenants must meet **Criteria A and B**:

Criteria A

- ▶ You are in receipt of Disability Benefit due to being temporarily out of work because you contracted Covid-19 or were a probable source of Covid-19 infection and your employer did not have to pay you; OR
- ▶ You are in receipt of/entitled to receive during the period of 9th March 2020 to 10th January 2021:
 - the temporary wage subsidy; or
 - any other social welfare payment paid for loss of earnings due to Covid-19 (this includes rent supplement or a supplementary welfare allowance),

Criteria B

- ▶ and as result, are at significant risk that your tenancy will be ended by your landlord.

A tenant meeting the above criteria can fill out the Self-Declaration form and benefit from the above protections. Before completing the declaration, it is important that you review information on what is meant by a 'relevant person' and that you meet this definition. The Self-Declaration form can be found [here](#).

The tenant **must send the original copy of the Self-Declaration form to the RTB** at rentarrears@rtb.ie or PO Box 47, Clonakilty, County Cork. The tenant must also **post a true copy to their landlord**. The RTB recommends use of certified or registered post unless the landlord consents to the declaration being sent electronically. Tenants are strongly advised to keep a copy of the form for their records and as evidence of its submission to the RTB and their landlord. A landlord may dispute the validity of a Self-Declaration if required via the RTB's Dispute Resolution Service.

It is a criminal offence not to tell the truth on this form.

Once received, the RTB will issue an acknowledgement letter to both the tenant and the landlord on receipt of the Self-Declaration.

Step 6: Service of Notice of Termination

- 1. Landlord who has not received a Self-Declaration form from their tenant:** If a tenant has not sent the landlord a Self-Declaration setting out that their rent arrears are a direct consequence of Covid-19, the landlord can proceed to serve a Notice of Termination for rent arrears based on the standard 28-day notice period once the 28-day warning notice has expired.
- 2. Landlord who has received a Self-Declaration form from their tenant:** If your tenant has submitted their Self-Declaration form to you confirming that Covid-19 has impacted their ability to pay rent, **that tenancy cannot be terminated until on or after 11th January 2021** and the tenant must be provided with a **minimum of 90 days' notice**. Please note that it is still open to a landlord to serve a valid Notice of Termination from 2nd August onwards; however, the termination date must be on or after 11th January 2021.

Please also note that where a landlord has received a Self-Declaration from their tenant, **no rent increase can take effect until the day after the expiry of the emergency period – i.e. 11th January 2021**.

The RTB has a new sample Notice of Termination for rent arrears, which can be found on www.rtb.ie and on Part C of this document.

Step 7: Landlords must serve a copy of the Notice of Termination to the RTB

There is a new obligation on landlords to send a copy of the **Notice of Termination they have served on their tenant for rent arrears to the RTB on the same day**. The requirement to send the copy on the same day applies from 2nd August onwards and applies specifically to Notices of Termination based on rent arrears only. Please note that if the landlord does not send the copy of the Notice of Termination to both the tenant and RTB, the Notice of Termination will be invalid.

The RTB has a new sample Notice of Termination for rent arrears, which can be found on www.rtb.ie and on Part C of this document.

Step 8: RTB will contact the tenant informing them of their dispute resolution options

Upon receipt of the Notice of Termination for rent arrears, the RTB shall notify the tenant in writing of his or her right to apply for dispute resolution with the RTB regarding the Notice of Termination, within 28 days of receipt of the Notice of Termination. Tenants will also be reminded of their rights and responsibilities under the Residential Tenancies Act regarding rental payments.

Tenants should ensure to keep copies of notices received, a copy of the Self-Declaration form, proof that it was issued to their landlord and to the RTB, and any relevant MABS advice.

For more information and support regarding these new steps, please contact the RTB at www.rtb.ie.

Part B

SAMPLE WARNING NOTICE

To [insert name of Tenant]

This notice relates to your tenancy of the dwelling at

[insert address of rented dwelling]

[Town]

[County]

[Eircode]

[Insert Registration Number RT]

Current Rent Amount: [insert amount]

Rent Paid: Weekly Monthly Annually

You have failed to pay rent in accordance with your obligations under the Residential Tenancies Acts 2004 to 2020.

As of today, the [insert date]

you owe rent arrears of € [insert amount]

(Please ensure the correct amount of arrears due at the time the warning notice is served is provided).

Failure to pay 100% of the monies owed by the expiry of the 28 days*, entitles me to terminate your tenancy by serving a Notice of Termination on you.

This warning notice is served on [insert date]

Signed

Landlord or Authorised Agent

Dated [insert date]

Copying: The Residential Tenancies Board by post to Po Box 47, Clonakilty, County Cork or by email to rentarrears@rtb.ie.

****Note: In accordance with section 11 of the 2020 Act, tenants should be given a minimum 28 days to pay the rent arrears.***

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://www.rtb.ie/privacy-statement>

Published on 11 August 2020.

Part C

SAMPLE NOTICE OF TERMINATION

To [insert name of Tenant(s)]

Your tenancy of the dwelling at

[insert address of rented dwelling]

[Town]

[County]

[Eircode]

[Insert Registration Number RT]

will terminate on [insert date]

(Please see Step 6 (Service of Notice of Termination) for the termination notice period relevant to your tenancy. Note: In respect of a Notice of Termination, for counting purposes, day 1 of the notice period begins on the day immediately following the date of service of the notice. The RTB recommends that you give additional days when calculating the required notice period to ensure sufficient notice is provided).

You must vacate and give up possession of the dwelling on or before the termination date.

The reason for the termination of the tenancy is due to the breach of tenancy obligations in that you have failed to pay rent on the dates it fell due for payment.

You have the whole of the 24 hours of the termination date to vacate and give up possession of the above dwelling.

Any issue as to the validity of this notice or the right of the landlord to serve it, must be referred for dispute resolution to the Residential Tenancies Board under Part 6 of the Residential Tenancies Acts 2004 to 2020 within 28 days from the date of receipt of it.

This notice is served on [insert date]

Signed

Landlord or Authorised Agent

Copying: The Residential Tenancies Board by post to Po Box 47, Clonakilty, County Cork or by email to rentarrears@rtb.ie.

****Note: You must serve a copy of the Notice of Termination on the Residential Tenancies Board on the same date as you serve it on the tenant(s). If you do not do this, then the Notice of Termination shall be deemed to be invalid.***

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://www.rtb.ie/privacy-statement>

Published on 11 August 2020.