

Mediation Procedures



Mediation is a fast, simple, convenient, and efficient option for resolving tenancy issues. It is a free service provided by the Residential Tenancies Board (RTB). Mediation focuses on the interests and needs of the parties and on solutions, rather than determining or assigning blame.

An RTB appointed mediator acts as a neutral facilitator and supports each party through the process, explaining each step of the process whilst informing parties on their rights and responsibilities. Parties will only speak to the mediator and not the other party.

The mediator's role is to work with the parties with the aim of helping them reach their own mutually satisfactory agreement.

Benefits of Mediation

- ▶ When parties come to their own agreement through the Mediator, the terms of the agreement are complied with in 97% of cases.
- ▶ The terms of any such agreement can be customised to suit the particular set of circumstances of the case within the framework of the RTB Act.
- ▶ While the terms of any such agreement are legally binding and thus enforceable, they remain confidential to the case parties and therefore are not published on the RTB's website.

In the majority of cases there is no need for parties to have legal representation as the mediator will explain the main legal principles to the parties.

The mediator and their role

The mediator's role is to assist the parties in finding possible solutions to the issue(s) under dispute and help them to reach a potential agreement that both parties are fully happy with. In doing so, the mediator will lead the parties through the steps towards confirming any such agreement, whilst allowing them the time and space to ensure they fully understand the term(s) of the agreement.

While they are not directly employed by the RTB, the mediators do work closely with the RTB staff to ensure the entire mediation process runs as smoothly and efficiently as possible for the parties.

What is a mediation agreement?

The mediation agreement is the final settlement between the parties regarding the issue(s) that were under dispute.

The mediator must receive written confirmation from both parties that they are happy with the terms of the agreement before they bring the mediation hearing to an end after the 1.5 hours allocated. This can be done via text or email.

Preparing for your mediation hearing

For mediation to be successful, the parties should enter into the process with the intention of reaching an agreement regarding the issue(s) under dispute, thus they should be willing to compromise to some extent.

While mediation is not evidence-based, the parties may opt to submit any supporting documentation they feel is relevant to the case, this documentation is not circulated to the other party.

A copy of any notice of termination or notice of rent review served or received should ALWAYS be submitted as documentation for the case.

That said, any supporting documentation submitted will be made available to the mediator only. The dispute application will be circulated to the parties and their representatives (where applicable).

Before the hearing

The parties will receive a minimum of 7 days' notice of the mediation hearing time and date. This will be sent to the parties via email or post depending on their preference.

Mediation Position Statement

Prior to the hearing, the RTB will encourage the parties to complete a mediation position statement outlining what they hope to achieve during the hearing.

The purpose of the statement is to ensure that the mediator has an understanding of what the parties are hoping to achieve from the mediation.

During the hearing

The mediation hearings are conducted via telephone by the Mediator. (In exceptional circumstances we may need to hold a hearing using Microsoft Teams or via face-to-face meeting due to additional needs etc.)

During a telephone hearing, the mediator will only be able to phone one point of contact for the applicant party and one point of contact for the respondent party. Thus, if there is more than one applicant/respondent, the parties will need to nominate a point of contact during the assessment stage.

The point of contact must have the authority to reach an agreement with the other party and to make decisions regarding the dispute issue(s).

On the day of the hearing, the mediator will contact both the applicant party and respondent party separately, going back and forth via telephone calls. They will call the applicant party first at the start time of the hearing, then call the respondent party, thus it may be 30 minutes or longer before the respondent party receives their first call from the mediator. The purpose of the calls is to ensure that the mediator fully understands the parties' perspectives and therefore can assist them to come to a mutually acceptable agreement to resolve the matters under dispute.

If an agreement is reached by the parties, the mediator will write up the agreed terms and send a copy to the parties asking them to confirm that they are happy with same. The mediator can send this by text or email depending on the parties preference.

Once confirmation has been received from the parties, the mediator will close the mediation hearing and inform the RTB of the outcome.

After the hearing

If an agreement is reached at mediation

If neither party withdraws from the agreement, and the period of 10 days has elapsed from the date of the completion of the mediation, the agreement will then be made into a legally binding Determination Order which the RTB will subsequently issue to the parties.

If no agreement is reached at mediation

If no agreement was reached during the hearing, the parties have the right to refer the mediation application to a Tribunal. within the period of 10 days from the date of the completion of the mediation. If neither party submits an application for a tribunal within the timeframe, 10 days from the date the mediation is completed, the case will be closed and the RTB will take no further action in the matter.

Appeal to tribunal

As mentioned above, the parties can appeal the mediation to a tribunal, should they decide they wish to withdraw from the agreement or in cases where no agreement could be reached.

Parties who wish to refer the case to a Tenancy Tribunal must do so on or within 10 calendar days of the completion of the mediation. The date of completion of the mediation is deemed to be day 1 of the 10 calendar days appeal period.

FAQ's

Who is the Applicant party / Respondent party?

The applicant party is the person(s) who has submitted the dispute application. The person(s) whom the dispute application has been brought against is referred to as the respondent party.

What type of supporting documentation can be submitted?

Typical supporting documentation may include copies of warning notices, notices of termination (eviction notices), notices of rent review, receipt of deposit paid, statement of rent paid.

At the mediation hearing, will the parties have to speak to each other?

No, the parties will only speak to directly to the mediator during a telephone mediation.

Only in cases where we need to hold a face to face/in person hearing would the parties need to speak with each other.

What happens if one party does not answer the phone call from the mediator?

If the applicant party does not answer the phone, the case will be deemed abandoned. If the respondent party does not answer the phone, the applicant will have the opportunity to proceed to Adjudication / Tribunal. The mediator will explain the best option depending on the merits of the dispute resolution application.

Is it possible for the parties resolve the case before the hearing?

Yes, the RTB always encourages the parties to come to their own settlement. If this happens, please ensure to inform the RTB.

What happens if a party does not comply with the agreement terms in the Determination Order?

If a party refuses to comply with any, or all, of the terms of the Order, the other party can make a direct application to the District Court to seek enforcement of the Order. Alternatively, the party seeking compliance with the terms of the Order can contact the RTB by emailing enforceorder@rtb.ie for further information regarding enforcement.

How to appeal to a Tenancy Tribunal?

To appeal a case to a Tenancy Tribunal, an RTB appeal application form must be completed. This form can be found online at www.rtb.ie or by phoning **0818 30 30 37** to request a copy by post. Once completed this form can be emailed to tribunals@rtb.ie together with the €30 appeal fee.