

RTB Policy on Enforcement of Determination Orders

POLICY: The Board may provide assistance to parties seeking to enforce a Determination Order through the District Court, where parties fail to comply with its Determination Order. Decisions on whether or not to provide assistance are made on a case-by-case basis taking into account the Board's enforcement budget in any given year.

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 has agreed to assist a large number of parties in pursuing enforcement and will continue to do so, but it does not have the budget to assist in all cases. To help lower the cost of enforcement, the RTB has implemented a new way of supporting enforcement by creating a Panel of Solicitors who will take enforcement proceedings on behalf of a party with the costs of these proceedings being funded by the RTB. While the budget for RTB activities is limited, it is expected that by reducing the cost of enforcement proceedings and, by the change from the Circuit Court to the District Court, this will allow the RTB to provide Legal Assistance in a higher number of cases. Decisions on urgent cases are prioritised; these include cases concerning overholding, serious rent arrears, non return of deposits and unlawful termination.

CRITERIA: The Board endeavours to secure compliance initially by non-judicial means by writing to the non-compliant parties to remind them of their obligation under the terms of the Determination Order and requiring them to make arrangements to comply. If this approach is unsuccessful, then the criteria the Board have regard to in making a decision whether or not to agree to assist a party seeking compliance include the following:

- Dispute type
- History of compliance with landlord/tenant legislation
- Technical strength of the case (e.g. parties may agree a matter that is not legally enforceable)
- What contact/steps, if any, the person seeking compliance has taken with the non-compliant party to obtain compliance with the Determination Order
- Existing representations made by the RTB to the non-compliant party and relevant information obtained
- Geographical location
- Particular circumstances of the case
- Value for money evaluation
- Maximum of three cases per person per annum may be sanctioned
- Enforcement sanctioned only on a final outcome of all matters under dispute (e.g. if a notice of termination is invalid and a new one is required to be served, then requests for enforcement of the rent arrears will not be considered in isolation to a final outcome of all matters in dispute)
- If a party is as, or better, able to enforce than the RTB then they will be expected to undertake their own enforcement
- Overall number of cases sanctioned for enforcement will be limited to available budget in any given year
- The extent of the non-compliant party's co-operation in seeking to discharge the debt; regard will be given to whether the party has made reasonable efforts to resolve the matter
- Any other circumstances pertaining where the RTB considers it inappropriate that the resources available should be used in a particular case

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.

Applications should be returned to
Order Enforcement Unit, RTB, PO BOX 47, Clonakilty or (scanned) by email to: enforceorder@rtb.ie

- 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 3-4**
- I have signed the Undertaking to Support Enforcement Proceedings, should the Board sanction same, page 5 (*please note: the Undertaking must be signed by the party(s) in whose favour the Determination Order was made*)**
- I have completed the Financial Statement on page 6 , (please note that the RTB considers all aspects of the case in making a decision. The fact that you have financial means does not indicate that the RTB will automatically refuse assistance in your case.)**
- 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 the priority categories e.g. (overholding, overholding together with unpaid rent, serious rent arrears, unlawful termination, and retained deposits). If your case is deemed to be a priority case, we aim to process it within 21 days of receipt. The RTB's Policy, as outlined on page 1 of this application, is applied to both priority and non-priority cases. Therefore, any priority applied to a case does not automatically mean that the Board are more likely to grant a request for assistance.
- Your request will be logged and will be put in a queue for further processing. All cases deemed non-priority or for modest sums, will be dealt with as soon as possible in order of date of receipt. Due to the volume of requests received each year, and the time it takes to process a case for a decision, regrettably it may take some time before a decision is made on non-priority cases. We constantly review our practices in order to ensure we are operating in an efficient and effective manner.
- 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.
- Your case will be reviewed in detail and submitted to the Board for a decision on whether or not enforcement assistance will be granted in your case.
- You will be informed in writing of the Board's decision. Our priority is to process cases as quickly as possible and in order to do this it is not possible to provide you with regular updates. All relevant updates will be issued to you by email or by letter.
- If the Board agrees to provide you with assistance, we will write to you enclosing a list of solicitors in the locality of the disputed dwelling who have agreed to undertake enforcement proceedings in the District Court on your behalf. These proceedings will be funded by the RTB.
- If the Board declines your request, you will receive a letter from the RTB so that you can consider the options still open to you to enforce your Determination Order. Unfortunately as we are operating within a predetermined budget the RTB cannot assist in all cases

Enforcement Request Details

PLEASE READ CAREFULLY: Enforcement by the RTB is discretionary under the Residential Tenancies Act 2004. Decisions on whether or not to assist parties in pursuing enforcement are made on a case-by-case basis in accordance with the RTB Enforcement Policy as set out on *page 1* and within the resources available to the RTB. The RTB takes non-compliance with its Orders seriously and has, over the years, agreed to take a sizeable number of enforcement cases per year. As outlined above, the RTB will first endeavour to secure compliance through non-judicial means by writing to the non-compliant party(s) and reminding them of their 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, in regard to securing loans.

1. Case Ref No (*)

DR: -

2. Your details:

Name: (*)

Contact phone number: (*)

Address: (*)

Email:

3. The contact details of the non-compliant party /parties, if known:

(If the Order involves more than two non-complaint parties, please provide the additional parties details on a separate sheet)

Name: (*)

Contact phone number: (*)

Address: (*)

Email:

Name:

Contact phone number:

Address:

Email:

4. 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

5. As you are aware, it is also open to you to seek your own enforcement through the Courts. That said, the Board does take a sizeable number of enforcement cases each year. In order for the Board to consider your request, please set out clearly the reasons why you cannot pursue your own enforcement. (*) This information also allows us to look at trends regarding enforcement and issues between parties following disputes etc. which can help us to improve our process.

I have financial means to pursue my own enforcement: (*) **Important Note:** If you tick the box marked yes this does not automatically mean that the RTB will refuse you assistance. Please be assured that any financial information provided is held in the strictest confidence.

- Yes No (if answer is no please complete the Financial Statement as provided on page 6)

6. Terms of the Determination Order not complied with relate to: (*)

- | | |
|---|---|
| <input type="checkbox"/> Overholding | <input type="checkbox"/> Unlawful termination |
| <input type="checkbox"/> Damage in excess of 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 |

7. 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:

€ as of (dd/mm/yyyy)

8. If the matter previously involved overholding but the tenant has now vacated the dwelling, please state the date the tenant vacated the dwelling and the arrears of rent owed at the date of vacation, if any:

Tenant vacated on (dd/mm/yyyy):

Rate of arrears at the date of vacation, (€):

Please note that to knowingly or recklessly provide false or misleading information 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 assistance that will allow me to undertake 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 a Solicitor from a Panel set up by the RTB for the purpose of taking enforcement through the District Court. I understand that I am required to contact a solicitor within 30 days of the date of issue of the RTB Offer Letter unless there are good and substantial reasons why I cannot do this.

I understand that the RTB will incur costs in providing assistance to 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 overholding cases.

Signed*: _____

Dated: _____

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

Financial Statement

The information requested below is held in the strictest confidence and is not shared with the other party or any other Government Department / Agency.

- Please complete this statement if you seek the Board’s assistance to pursue enforcement
- We may, in exceptional cases, ask you to provide vouching evidence at a later time.

Name:

Number in household: Adults Children, age/s:

Breakdown of income and expenditure: Weekly Monthly

If you have difficulty in completing this statement please contact us for assistance.

1. Income (€):

	Wages/Salary (After Tax & Deductions)
	If Self-Employed, Previous Year Estimate
	Social Welfare
	Pensions
	Child Benefit
	Rental Income
	<i>Other Income (Please list below)</i>
	Total Income

3. Payments & Liabilities (€):

	Rent/Mortgage Arrears
	Property Tax Arrears
	Electricity Arrears
	Water Charge Arrears
	Loans
	Instalment Orders
	Court Fines
	Family Maintenance
	Hire Purchase for Car
	Other Priority Liabilities
	Other Secondary Liabilities
	<i>(Please list below).....</i>

2. Expenditure (€):

	Rent/Mortgage
	Insurance (Mortgage/Building/Contents)
	Property Tax
	Food/Housekeeping
	Electricity/Heat/Fuel
	TV Licence
	Waste Charges
	Water Charges
	Other Utilities
	Transport Costs
	Education Cost
	Childcare
	Medical Costs
	Repairs and Maintenance
	<i>Other Expenditure (Please list below)</i>
	Total Expenditure

4. Available Income (€):

	Total Income (1) (Less)
	Total Expenditure (2)
	Total Available Income
	Total Available Income (Less)
	Payments & Liabilities (3)
	Total Available Income