

Guide to taking

Enforcement Proceedings in the District Court



RTB Bord um Thionóntachtaí Cónaithe
Residential Tenancies Board

About Us

What is the Residential Tenancies Board?

The Residential Tenancies Board (RTB) is a public body set up to support and develop a well functioning rental housing sector. Our remit covers both the private rental sector and not-for-profit housing providers also referred to as Approved Housing Bodies. Our role is to regulate the rental sector; provide high quality information to tenants and landlords; maintain a national register of tenancies; resolve disputes between landlords and tenants; maintain a national register of tenancies; conduct research and provide information to inform policy.

What we do

Information, research and education

We provide high-quality information to tenants and landlords as well as to the general public to help them understand their rights and responsibilities. We also provide accurate and authoritative data on the rental sector, such as the RTB Quarterly Rent Index, which allows us to monitor trends in the rental sector, and also allows individuals to compare rents in particular locations.

Registrations

All private residential landlords and Approved Housing Bodies are obliged to register their tenancies. A public register of tenancies is available on our website. The registration of tenancies enables us to collect important data on the sector, and is also a key part of regulating and supporting the sector and ensuring landlords and tenants are aware of their rights and responsibilities.

Dispute resolution

Since 2004, we have replaced the courts in dealing with the majority of disputes between landlords and tenants through our Dispute Resolution Service. This service offers a choice of resolution types to parties – mediation or adjudication.

Disclaimer

Even though care has been taken in the preparation and publication of the document, the Residential Tenancies Board, its servants or agents assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided in this document and do not accept any liability whatsoever arising from any errors or omissions contained therein.

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PLEASE NOTE: The step-by-step outline and the attached documents in the appendices are intended as a guide only and should be tailored to the circumstances of the individual case. This guide and the sample documents are not to be construed as legal advice. The RTB takes no responsibility for any failure by a party to enforce a Determination Order.

This booklet is intended as a suggested guide only and will evolve and develop as the cases come before the individual District Courts.

1 Introduction

From the 26th February 2018, the enforcement of RTB Determination Orders will move from the Circuit Court to the District Court. As there are more District Courts nationwide which sit more often than the Circuit Court, this will provide for quicker access to the Courts at a significantly reduced cost.

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. This change in moving from the Circuit to the District Court is therefore an important and welcome change in terms of trying to address these issues more quickly.

What to do if a Determination Order is not complied with?

If an order is not complied with, there are two options for enforcement.

- 1** You can make an application for the RTB to take enforcement in the courts on your behalf. More information on this is on www.rtb.ie.

or

- 2** You can take your own enforcement proceedings in the Court. In order to enable and support people to take a case to the District Court this “Guide to taking Enforcement Proceedings in the District Court” has been written by the RTB. This is a clear step by step guide to the new process in the District Court and how to bring a case to the District Court.

The RTB will take a large amount of the requested enforcement cases, but it does not have the budget to take them all. To help lower the cost of enforcement for the RTB, the RTB has created new way of supporting enforcement cases by creating a panel of solicitors who will take enforcement proceedings on behalf of 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 to the District Court this will allow the RTB to provide legal assistance in a higher number of cases. If you wish to request the RTB to provide assistance to you to pursue enforcement you can email enforceorder@rtb.ie to request an application form. Decisions on urgent cases are prioritised first, these includes cases concerning overholding, serious rent arrears, non return of deposits and unlawful termination.

It is important to note that the majority of landlords and tenants do comply with Determination Orders however, the RTB recognises that, where they don't, the impact can be considerable. The RTB will continue develop and improve the enforcement process by taking as many cases as possible with the budget available as well as supporting parties to take their own cases.

2 The process



3 District Court process - key terms and legislation

This guide sets out the steps that need to be taken to apply to the District Court to enforce a Determination Order of the Residential Tenancies Board (“RTB”).

Key Legislation

At the outset, you should familiarise yourself with:

- ▶ The relevant provision of the legislation, which is **section 124 of the Residential Tenancies Act 2004 as amended (the “2004 Act”)**;
- ▶ The applicable courts’ rules which are the **District Court (Residential Tenancies) Rules 2018**.

Key terms

There are certain terms which will be used throughout this document. These are as follows:

| Term | Meaning |
|-------------------|---|
| Applicant | The person making the application to enforce the Determination Order because it has not been complied with. |
| Respondent | The person against whom the Determination Order is sought to be enforced because they have not complied with the Determination Order. They may also be called the non compliant party. |

| Term | Meaning |
|---------------------------------|--|
| District Court | This is the court in the district in which the tenancy or dwelling is or was situated. You can find contact information for each of the District Court offices around the country on www.courts.ie . If you are unsure which district the tenancy or dwelling is situated in, you should contact the Court Office before issuing the proceedings to confirm this. |
| Application | The application to enforce the Determination Order is made to the Judge of the appropriate District Court. The papers making up the Application comprise the Notice of Application, Grounding Affidavit, Exhibits and Declaration of Service. |
| Hearing Date/Return Date | The date the District Court Office lists the case. |
| Call over Date | Some, but not all District Courts, have a call over date. This is the date when cases waiting to be determined are reviewed to see if they are ready to go to a hearing. Cases which are ready will be given a hearing date. |
| Relief | The Order you are seeking the Court to make against the Respondent. |
| Affidavit | An Affidavit is a written statement made on oath. |
| Stamp Duty | This is a charge or tax for filing the documents with the Courts Service. |

4 The Steps

The following is a high level summary of the steps involved in enforcing a Determination Order in the District Court.

PLEASE NOTE: The relevant District Court office should be contacted in advance to confirm the procedure, as the steps may vary slightly from one District Court office to the next.

1 RTB issues the Determination Order

A Determination Order (samples provided at **Appendix 1**) is issued from the RTB to the parties following the conclusion of the dispute. If the terms of the Order are not complied with within the time period set out in the Order, then parties may enforce the Order.

2 Pre-proceedings letter (optional)

You have the option of issuing a pre-proceedings letter (sample provided at **Appendix 2**) to the Respondent stating that if the Determination Order is not complied with within a certain period of time (for example seven days or 14 days), you will bring a case to the District Court to obtain an Order of the Court requiring the Respondent to comply with the Determination Order.

It is not an essential proof for your case to send this letter, but it is recommended. It is always preferable to attempt to resolve matters between the parties prior to issuing Court proceedings. Furthermore, this letter is relevant to any costs application that might be made.

3 Making an application

If the Respondent fails to comply with the Determination Order, an application for enforcement can be taken to the District Court. The application must be made to the Judge of the District Court in the district in which the tenancy or dwelling is or was situated. You should check the address as listed on the Determination Order.

4 Check the District Court rules

You will need to review the District Court procedure, which can be found at Order 93C of the District Court rules and the District Court (Residential Tenancies) Rules 2018 – available at www.courts.ie.

5 Evidence required in making an enforcement application

In order to make an application for enforcement you will need to obtain the necessary proofs/ evidence of your dispute case; these can be obtained from the RTB and a copy of these will be required to be given to the Court as part of your application. You can contact the RTB to request the necessary proofs by emailing: enforceorder@rtb.ie. When requesting these proofs from the RTB please ensure that the case reference number is clearly identified in the request email.

6 Drafting the Notice of Application

As the applicant you must draft a “Notice of Application”.

- ▶ The Notice of Application form must be modified as appropriate to reflect the facts of your case.
- ▶ It must be titled “*In the Matter of Section 124 of the Residential Tenancies Act 2004, as amended*”.
- ▶ It should set out the relief or outcome you seek (i.e. a Court Order enforcing the terms of the Determination Order) and the grounds upon which you seek the reliefs.
- ▶ Attach the original or a certified copy (certified copies are available from the RTB) of the Determination Order.

A form of Notice of Application is available at Form 40C.01, Schedule C, of the District Court Rules, and this is available on the Court’s website, www.courts.ie. There are also sample Notices of Application provided at **Appendices 3-5** of this document; these are for guidance only. The form should be amended as appropriate to reflect the facts of your case.

7 Prepare and swear a Grounding Affidavit

You will need to prepare and swear an Affidavit to ground your Notice of Application. An Affidavit is a written statement made on oath. The purpose of the Grounding Affidavit is to set out the facts being relied upon in the case, including details of the background to the dispute, the determination made and confirmation that the Respondent to the proceedings has failed to comply with the terms of the Determination Order. You should draft the Affidavit to reflect the facts of your case. The sample Grounding Affidavits at **Appendices 3-5** are for general guidance only. You must be entirely satisfied as to the accuracy of the content of your Affidavit before you swear it, as it is made on oath. Your Affidavit should set out the facts, not legal arguments. Legal submissions may be made to the Judge at the hearing, if necessary.

8 Prepare the exhibits or evidence

The exhibits are the evidence or proofs used in your affidavit to support your case. These will vary from case to case. The RTB will have provided you with a copy of the necessary proofs.

The exhibits may include the following:

- (a) The application for dispute resolution services;
- (b) The Adjudication Report and also the Tribunal Report (if the case was appealed);
- (c) A copy of the Determination Order and letter enclosing same;
- (d) Any relevant correspondence with the Respondent including:
 - i. correspondence from the RTB notifying the Respondent of the hearing date before the RTB together with postal receipts
 - ii. any correspondence to the Respondent regarding their non-compliance with the terms of the Order, and
 - iii. any response received;
- (e) If applicable, an up-to-date statement of rent arrears.

Correspondence marked “without prejudice” or which was not intended to be relied upon, i.e. a private settlement offer, should not be exhibited to the Affidavit. **If you are unsure whether a document is “without prejudice” you should take legal advice.**

9 Swear your Grounding Affidavit and the Exhibits

You must swear your Grounding Affidavit in the presence of a Solicitor or Commissioner for Oaths. You must ensure that the content of the Grounding Affidavit is true and accurate before signing it in the presence of a Solicitor or Commissioner for Oaths. Any Solicitor who holds a certificate of practice can witness the swearing of a Grounding Affidavit which currently (February 2018) costs €10.00 per Affidavit and €2.00 per Exhibit.

10 Take the paperwork to the Stamping Office

Take the Notice of Application and Grounding Affidavit to the **Stamping Office** in the relevant District Court Office. The Courts Service Official will stamp each relevant document with the appropriate stamp duty (stamp duty is a charge or tax for filing the documents with the Courts Service). You should confirm the stamp duty payable on the Notice of Application with the relevant District Court office. The stamp duty applicable to a Grounding Affidavit is currently €15.00. This information is available on www.courts.ie.

Make an appropriate number of copies of the document once it is stamped. We would recommend that you make at least 5 copies.

11 Submitting the Application

Take the stamped Notice of Application, Grounding Affidavit and Exhibits and the copies to the relevant District Court Office and have the Application issued. This means that a record number and a return date for the application will be assigned by the Courts Service. You must come back to the Court on that date. The return date must be not less than 21 days from the date you issue your application.

Some districts will give what is known as a “call over date” to a case before setting a hearing date. It is recommended that you contact the appropriate District Court Office to confirm if they have a call over prior to assigning a hearing date. Cases which are ready to proceed following the call over date are assigned dates for hearing. You should attend the call over date.

12 Serving notice

It is your responsibility, as applicant, to serve the Respondent with a copy of the Notice of Application, Grounding Affidavit and the Exhibits (serve a copy, not the originals). This is an extremely important step in the process to ensure that the Respondent is on notice of the reliefs you are seeking. It gives the Respondent an opportunity to prepare his/her case.

How to serve the copy of the Notice of Application, Grounding Affidavit and Exhibits on the Respondent:

- ▶ Personal service (i.e. hand it to them in person). This must be carried out not less than 7 days before the Court return date; or
- ▶ By posting by way of pre-paid registered post to the Respondent's residence or place of business. This must be carried out not less than 21 days before the Court return date; or

If one of the reliefs that you are seeking is vacant possession of the dwelling, you may serve the proceedings on the Respondent by delivering the Notice of Application and Grounding Affidavit and Exhibits, addressed to the Respondent, to the dwelling (the address of which is on the Determination Order). Alternatively, if you cannot deliver them in person to the Respondent at the dwelling, you may leave the documents at the dwelling or attach them to the dwelling at a conspicuous place such as the door. **This only applies where one of the reliefs sought is vacant possession of the dwelling. In all other cases, you must effect service by personal service or pre-paid registered post, as above.**

If it proves difficult to serve the Respondent by one of the means set out above, the Applicant can bring an application for substituted service in accordance with Order 41 rule 12 of the District Court Rules.

You must also serve the Notice of Application and Grounding Affidavit and Exhibits on the RTB by registered post at PO Box 47, Clonakilty, County Cork (marked for the attention of the Enforcement Section).

13 Declaration of Service

Following service of the papers on the Respondent you should make a statutory Declaration of Service before a Solicitor or Commissioner for Oaths, outlining how the documents were served. If you served the

documents with a covering letter, it is recommended that you attach this letter to the Declaration of Service. If the Respondent has been served by registered post, a copy of the certificate of posting and proof of delivery (available from the An Post website www.anpost.ie) should also be attached. (A sample Declaration of Service is attached at **Appendix 6**).

The Declaration of Service should be stamped by the Stamping Office in the District Court with the applicable stamp duty (currently €15.00). You must lodge the original Notice of Application and Declaration of Service with the relevant District Court Office not later than four days prior to the return date.

14 The Return Date

You must attend the District Court on the Return Date set by the Courts Service. It is recommended that you have at least two full copies of the documents that you will be relying on in the Court.

On the Return Date, the Judge may either:

- ▶ hear the application, or
- ▶ give instructions or directions as to what is going to happen to your case. Instructions or directions may include that the parties provide the Court with written submissions or, that either party file and serve an additional Affidavit. If this is the case, the Judge will adjourn the case to a further date.

15 The Court Hearing

On the hearing date, your case will be called. You or your Solicitor/Barrister must present your case to the Judge and explain the relief you are seeking. These applications are heard on affidavit evidence or as the Judge decides. This means that the Judge may make a decision based on reading the documents filed, or the Judge may ask the parties to make submissions.

You may ask permission of the Judge to open your Grounding Affidavit to the Court to give the background of the case. The Judge may ask you questions on the content of your Grounding Affidavit or otherwise. The Judge may also ask the Respondent to make submissions and to answer questions.

The Judge may decide it is appropriate to adjourn the case to a later date. This might be, for example, in circumstances where:

- ▶ the Respondent wishes to oppose the application and wishes to file a replying Affidavit.
- ▶ the Judge issues a direction/instruction and the case is adjourned to provide time for the direction/instruction to be complied with.

Either party may also apply to the Court for an adjournment and it is at the Judge's discretion as to whether to grant an adjournment.

16 The decision

If the Court is satisfied that the proofs/ evidence are in order and the Respondent has been properly served with notice of the proceedings, the Judge will make an Order enforcing the terms of the Determination Order in favour of the Applicant.

16 (i): There are some circumstances where the Court will decide not to make an Order enforcing the terms of a Determination Order; see Section 124 of the 2004 Act.

16 (ii): If the Respondent can satisfy the Court that there are good and substantial reasons for his/her having failed to appear at the RTB hearing, the District Court may cancel/set aside the Determination Order and direct that a fresh determination of the matter be made; see Section 125 of the 2004 Act.

16 (iii): If your application is successful, the Court may make an Order in your favour in relation to the costs of taking the proceedings. You can apply for this Order on the day of your hearing if appropriate.

17 The Court Order

After the hearing you should contact the District Court Office to request that they send out a copy of the Court Order to you. It may be necessary to draft the Court Order and send the draft to the relevant Court Office.

18 Serving the Court Order

You must serve the Court Order on the Respondent. This is not done by the Court. If the Order of the Court includes an Order for possession of the dwelling (ie an Order requiring the Respondent to vacate the dwelling), you should arrange for personal service of the Order.

PLEASE NOTE: If the Respondent persists in failing to comply with the Court Order, execution of the Order may be pursued by any of the means permitted by the District Court rules. You may contact the District Court office or your solicitor to consider the options available.

APPENDIX 1

Sample Determination Orders

EXAMPLE OF DETERMINATION ORDER RELATING TO RENT ARREARS

RESIDENTIAL TENANCIES BOARD DETERMINATION ORDER

REF: []

In the matter of Tom Smith [Applicant Landlord] and Kate Jones [Respondent Tenant], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

1. The Respondent Tenant shall pay the total sum of € [] to the Applicant Landlord, in [] consecutive monthly payments of € [], on the 28th day of each month, commencing on the 28th day of the month immediately following the date of issue of this Order. This sum is comprised of rent arrears of € [] having deducted the entire of the justifiably retained security deposit of € [] in respect of the tenancy of the dwelling at [].
2. The enforcement of this Order for such payment of € [] will be deferred and the total sum owing reduced by the cumulative sum paid in the monthly instalments of € [] made by the Respondent Tenant to the Applicant Landlord on each due date until such time as the total sum of € [] has been paid in full.
3. For the avoidance of doubt, any default in the payment of any of the monthly instalments shall act to cancel any further deferral and the balance due at the date of default of any such monthly payment shall immediately become due and owing to the Applicant Landlord.

This Order was made by the Residential Tenancies Board on the [].

EXAMPLE OF DETERMINATION ORDER RELATING TO DEPOSIT RETENTION

**RESIDENTIAL TENANCIES BOARD
DETERMINATION ORDER**

REF: []

In the matter of Kate Jones [Applicant Tenant] and Tom Smith [Respondent Landlord], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

The Respondent Landlord shall pay the total sum of € [] to the Applicant Tenant, within 14 days of the date of issue of this Order, being the entire of the unjustifiably retained security deposit in respect of the tenancy of the dwelling at [].

This Order was made by the Residential Tenancies Board on [].

EXAMPLE OF DETERMINATION ORDER RELATING TO OVERHOLDING AND RENT ARREARS

**RESIDENTIAL TENANCIES BOARD
DETERMINATION ORDER**

REF: []

In the matter of Tom Smith [Applicant Landlord] and Kate Jones and Jack Jones [Respondent Tenants], the Residential Tenancies Board, in accordance with Section 121 of the Residential Tenancies Act, 2004, determines that:

1. The Notice of Termination served on [] by the Applicant Landlord on the Respondent Tenants in respect of the tenancy of the dwelling at [] is valid.
2. The Respondent Tenants and all persons residing in the above dwelling shall vacate and give up possession of the above dwelling within [] days of the date of issue of this Order.
3. The Respondent Tenants shall pay the sum of € [] to the Applicant Landlord, within [] days of the date of issue of this Order, being rent arrears in respect of the tenancy of the above dwelling.
4. The Respondent Tenants shall also pay any further rent outstanding from [], being the date of the [Adjudication / Tenancy Tribunal] hearing, at the rate of € [] per month or proportionate part thereof at the rate of € [] per day and any other charges as set out in the terms of the tenancy agreement for each month or part thereof, until such time as they vacate the above dwelling.
5. The Applicant Landlord shall refund the entire of the security deposit of € [] to the Respondent Tenants, on gaining vacant possession of the above dwelling, less any amounts properly withheld in accordance with the provisions of the Residential Tenancies Act, 2004.

This Order was made by the Residential Tenancies Board on the [].

APPENDIX 2

SAMPLE FORM PRE-PROCEEDINGS LETTER – TO BE AMENDED DEPENDING ON THE FACTS OF THE CASE

[INSERT YOUR ADDRESS]

Private & Confidential

[INSERT RESPONDENT'S NAME]

[INSERT RESPONDENT'S ADDRESS]

Re: Non Compliance with the Terms of the Determination Order [INSERT REFERENCE] dated [INSERT]

[INSERT NAME](Applicant Landlord/Tenant) and [INSERT NAME] (Respondent Tenant/Landlord)

Dear [INSERT]

I refer to the above Determination Order of the Residential Tenancies Board (the “**RTB**”) which you have failed to comply with to date.

Due to your failure to comply with the Determination Order, I intend to issue District Court proceedings pursuant to Section 124 of the Residential Tenancies Act 2004, to compel you to comply with its terms.

I intend to issue these proceedings within seven days of the date of this letter and without any further notice to you. A hearing date will be obtained from the District Court and the Notice of Application and Grounding Affidavit will be served upon you.

[It is my intention to apply for the costs of these proceedings against you and I will use a copy of this letter to fix you with such costs.] IF APPROPRIATE

Please note that no further notice will be provided to you with regard to the issuing of these proceedings. I strongly advise you not to ignore the contents of this letter.

Yours sincerely

APPENDIX 3

Sample Notice of Application in Respect of a Rent Arrears Determination Order

DRAFT ONLY – SHOULD BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

THE DISTRICT COURT
AN CHUIRT DUICHE

RECORD NO. []

DISTRICT COURT AREA OF []

DISTRICT NO. []

IN THE MATTER OF SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)

ON THE APPLICATION OF [NAME] OF [ADDRESS]

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

PURSUANT TO SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)

TAKE NOTICE that the above named Applicant will apply to the District Court sitting at _____ on the _____ day of _____ 20____ at [_____] am/pm (the “return date”) for:

1. An Order against the Respondent(s) of **[ADDRESS OF RESPONDENT(S)]** in the county of **[INSERT COUNTY]** (in the above Court (area and) district under the provision of the enactment stated above, pursuant to Section 124 of the Residential Tenancies Act 2004 (as amended) (hereinafter the “Act”) directing the Respondent to comply forthwith with the following terms of a Determination Order (a certified copy of which is attached hereto) dated **[INSERT DATE]** and issued by the Notice Party on **[INSERT DATE]** to the Respondent(s) regarding the tenancy of a premises at **[DWELLING ADDRESS]** (the ‘Dwelling’);

(1) “The Respondent shall pay the sum of €**[INSERT AMOUNT]** to the Applicant.

2. Further or other order.
3. Costs **[IF APPLICABLE]**.

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Application and the Affidavit of **[TOM SMITH]** and Declaration of Service thereof, the nature of the case and the reasons to be offered.

The grounds for the application are as follows:

[set out in summary the grounds of the application – for example:

*The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular [the failure of the Respondent to pay the sum of €**[INSERT AMOUNT]** to the Respondent in respect of **[INSERT DETAIL FROM DETERMINATION ORDER]**.*

Basis of Jurisdiction

The dispute relates to the premises at [**DWELLING ADDRESS**], being a dwelling situate within the jurisdiction of this Honourable Court.

Particular legal provisions relied on in the application

The within application is made pursuant to Section 124 of the Act.

Details of the Applicant

The Applicant is [**INSERT OCCUPATION**] with an address at [**INSERT ADDRESS**]. The Applicant [**is / was**] the [**Landlord**] of the Dwelling at the relevant time.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O’Connell Bridge House, D’Olier Street, Dublin 2 and engages, *inter alia*, in the resolution of disputes between tenants and landlords pursuant to the Act.

LIST OF DOCUMENTS ON WHICH THE APPLICANT WILL RELY AND COPIES OF WHICH ARE ATTACHED

| | Document | Date | Description |
|----|--|------|-------------|
| 1 | Determination Order of the RTB | | |
| 2. | [e.g. letter(s) notifying the Respondent of the hearing date(s); enclosing the adjudication report; enclosing the Determination Order; warning letters regarding non-compliance] | | |
| 3. | Adjudication Report/Tribunal Report/ | | |

Dated this day of 20 .

Signed:

(Solicitor for the) claimant

To: District Court Clerk at [ADDRESS]

And: []

(Solicitor for the) respondent of [ADDRESS]

And to: The Residential Tenancies Board
 Second Floor
 O'Connell Bridge House
 D'Olier Street
 Dublin 2

This notice of application has been filed with the District Court Clerk at and issued to the above return date on the day of 20....

Annex the Original Determination Order or a Certified Copy of Same, Certified by the Applicant as Being a True Copy of the Determination Order

Attach any Documents Being Relied Upon

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []

DISTRICT No. []

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

[INSERT NAME AND ADDRESS]

Applicant / Solicitors for the Applicant

Sample Grounding Affidavit in Respect of a Rent Arrears Determination Order

DRAFT ONLY FOR GUIDANCE – SHOULD ALWAYS BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []
DISTRICT NO. []

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES ACT
2004 (AS AMENDED)**

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

AFFIDAVIT OF [TOM SMITH]

I, [TOM SMITH], [INSERT PROFESSION], of [ADDRESS], aged 18 years and upwards **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Residential Tenancies Board (the “RTB”) on [DATE OF DETERMINATION ORDER] (hereinafter referred to as the “Determination Order”) pursuant to the Residential Tenancies Act 2004 (as amended) (hereinafter referred to as the “Act”) as more fully set out hereunder.
3. [IF APPLICABLE] Pursuant to Section 13(1) of the Residential Tenancies (Amendment) Act 2015 which was commenced on 7 April 2016 by the Residential Tenancies (Amendment) Act 2015 (Commencement of Certain Provisions) (No. 2) Order 2016 (Statutory Instrument 151/2016), the Residential Tenancies Board was substituted for the name of the Private Residential Tenancies Board. Section 13(3) of the Residential Tenancies (Amendment) Act, 2015 provides that in any enactment or any instrument under an enactment, references to the Private Residential Tenancies Board shall be construed as references to the Residential Tenancies Board.
4. I say that on [DATE OF APPLICATION] I applied to the RTB in my capacity as landlord, for dispute resolution services in connection with a property at [ADDRESS OF RENTED DWELLING] (hereinafter referred to as the “Dwelling”). This application alleged that the Respondent, in [her/his/their] capacity as tenant(s), had breached [her/his/their] tenant obligations by... [INSERT DETAIL]. I beg to refer to a copy of the said application for dispute resolution services upon which marked with the letters and number “TS1”, I have signed my name prior to the swearing hereof.

5. By way of background, [**INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE**].

[IF MATTER DEALT WITH BY ADJUDICATION]

6. I say that upon receiving my application for dispute resolution services, the RTB wrote to the Respondent(s) and to me by letter dated [**DATE**] informing us that an Adjudication hearing was scheduled to occur in respect of this dispute at [**ADDRESS**] on [**DATE**] at [**TIME**]. I beg to refer to a copy of the said letter from the RTB to the Respondent(s) dated [**DATE**] upon which marked with the letters and number "**TS2**", I have signed my name upon prior to the swearing hereof.
7. I say that an Adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that:

[INSERT ADJUDICATOR'S DETERMINATION]

I beg to refer to a copy of the Adjudicator's report, upon which marked with the letters and number "**TS3**" I have signed my name prior to the swearing hereof.

8. I say that by letters dated [**DATE**], the Adjudicator's report was forwarded by the RTB to the Respondent and to me. I beg to refer to a copy of the said letter dated [**DATE**] sent to the Respondent(s) upon which marked with the letters and number "**TS4**", I have signed my name upon prior to the swearing hereof.
9. [**IF APPLICABLE**] I say that the Respondent(s) appealed the decision of the Adjudicator, by Appeal Form received by the RTB on [**DATE**]. The grounds of appeal were *inter alia* that [**INSERT DETAILS**]. I say that by letters dated [**DATE**], the RTB notified the Respondent(s) and me that a Tenancy Tribunal hearing would take place at [**ADDRESS**] on [**DATE AND TIME**] to deal with the Respondents' appeal. I beg to refer to copies of said Appeal Form and letters dated [**DATE**] addressed to the Respondent(s) upon which pinned together and marked with the letters and number "**TS5**" I have signed my name prior to the swearing hereof.

[IF MATTER DEALT WITH BY MEDIATION]

10. **[IF APPLICABLE]** I say that the parties agreed to the dispute being dealt with by Mediation. A telephone Mediation took place on **[INSERT DATE AND TIME]**.
- a) I say that the parties came to an agreement at the Mediation and neither party withdrew from the mediated agreement within the 10 day ‘cooling off’ period. Accordingly, the RTB proceeded to make a Determination Order on **[INSERT DATE]** incorporating the terms of the agreement reached. **OR**
- b) I say that as the parties failed to reach an agreement at the Mediation/reached an agreement at the Mediation but one/more of the parties to the dispute advised the RTB within 10 days of the Mediation that they wished to withdraw from the agreement, the RTB convened a Tenancy Tribunal hearing to deal with the dispute between the parties.
11. **[IF APPLICABLE]** I say that a Tenancy Tribunal hearing took place as scheduled. Having heard the evidence of the parties, the Tribunal made the following determination -
- [INSERT TRIBUNAL DETERMINATION]**
12. **[IF APPLICABLE]** I say that the Tenancy Tribunal notified the RTB of its determination pursuant to s.108 of the Act and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act.
13. **[IF APPLICABLE]** I say that there was no appeal by either party to the Tenancy Tribunal and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act. **OR**
14. The RTB proceeded to make a Determination Order in terms of the mediated agreement reached between the parties.
15. The terms of the Determination Order are as follows:
- [INSERT TERMS OF DETERMINATION ORDER]**

I beg to refer to a copy of the said Determination Order upon which marked with the letters and number “**TS6**”, I have endorsed my name upon prior to the swearing hereof.

16. I say that by letter dated [DATE], the Determination Order was forwarded by the RTB to the Respondent and to me. I beg to refer to a copy of the said letter dated [DATE] upon which marked with the letters and number "TS7", I have endorsed my name upon prior to the swearing hereof.
17. [IF APPLICABLE] – [I say that there was no appeal of the decision of the Tenancy Tribunal to the High Court and the Determination Order became binding on the expiry of the 21 day period].
18. I say that the Respondent(s) [has/have] failed to comply with the Determination Order [INSERT DETAILS OF NON-COMPLIANCE]. [IF APPLICABLE] – [By letter dated [INSERT], I wrote to the Respondent(s) noting [his/her/their] failure to comply with the Determination Order, and afforded the Respondent(s) a [seven day] period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice. I beg to refer to a copy of the letter dated [DATE] upon which marked with the letters and number "TS8", I have signed my name prior to the swearing hereof].
19. I say that notwithstanding the foregoing, the Respondent(s) [has/have] failed to discharge the sum of €[INSERT SUM] due and owing to me pursuant to the terms of the Determination Order or any part thereof. I therefore pray this Honourable Court for the relief sought in the Notice of Application herein.

SWORN by the said [TOM SMITH] who is personally known to me/who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent **OR** The identity of the deponent has been established by me by reference to a [] containing a photograph of the deponent this day of 20 at

in the City/County of before me a Commissioner for Oaths/Practising Solicitor.

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit was filed by the Applicant this day of 20

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

[] DISTRICT COURT

DISTRICT No. []

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)**

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

AFFIDAVIT OF [TOM SMITH]

[]

Applicant / Solicitors for the Applicant

APPENDIX 4

Sample Notice of Application in Respect of a Deposit Retention Determination Order

DRAFT ONLY FOR GUIDANCE – SHOULD BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

**DISTRICT COURT AREA OF []
DISTRICT NO. []**

**IN THE MATTER OF SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)**

ON THE APPLICATION OF [NAME] OF [ADDRESS]

BETWEEN:

[KATE JONES]

Applicant

-AND-

[TOM SMITH]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

PURSUANT TO SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)

TAKE NOTICE that the above named Applicant will apply to the District Court sitting at _____ on the _____ day of _____ 20____ at [_____] am/pm (the “return date”) for:

1. An Order against the Respondent(s) of **[ADDRESS OF RESPONDENT(S)]** in the county of **[INSERT COUNTY]** (in the above Court (area and) district under the provision of the enactment stated above, pursuant to Section 124 of the Residential Tenancies Act 2004 (as amended) (hereinafter the “Act”) directing the Respondent to comply forthwith with the following terms of a Determination Order (a certified copy of which is attached hereto) dated **[INSERT DATE]** and issued by the Notice Party on **[INSERT DATE]** to the Respondent(s) regarding the tenancy of a premises at **[DWELLING ADDRESS]** (the ‘Dwelling’);
 - (2) “The Respondent shall pay the sum of € **[INSERT AMOUNT]** to the Applicant.
2. Further or other order.
3. Costs **[IF APPLICABLE]**.

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Application and the Affidavit of **[KATE JONES]** and Declaration of Service thereof, the nature of the case and the reasons to be offered.

The grounds for the application are as follows:

[set out in summary the grounds of the application – for example:

*The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular [the failure of the Respondent to **[INSERT DETAIL FROM DETERMINATION ORDER]**.*

Basis of Jurisdiction

The dispute relates to the premises at [**DWELLING ADDRESS**], being a dwelling situate within the jurisdiction of this Honourable Court.

Particular legal provisions relied on in the application

The within application is made pursuant to Section 124 of the Act.

Details of the Applicant

The Applicant is [**INSERT OCCUPATION**] with an address at [**INSERT ADDRESS**]. The Applicant [**is / was**] the [**Tenant**] of the Dwelling at the relevant time.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O’Connell Bridge House, D’Olier Street, Dublin 2 and engages, *inter alia*, in the resolution of disputes between tenants and landlords pursuant to the Act.

LIST OF DOCUMENTS ON WHICH THE APPLICANT WILL RELY AND COPIES OF WHICH ARE ATTACHED

| | Document | Date | Description |
|----|--|------|-------------|
| 1 | Determination Order of the RTB | | |
| 2. | [e.g. letter(s) notifying the Respondent of the hearing date(s); enclosing the adjudication report; enclosing the Determination Order; warning letters regarding non-compliance] | | |
| 3. | Adjudication Report/Tribunal Report | | |

Dated this day of 20 .

Signed:

(Solicitor for the) claimant

To: District Court Clerk at [ADDRESS]

And: []

(Solicitor for the) respondent of [ADDRESS]

And to: The Residential Tenancies Board
 Second Floor
 O'Connell Bridge House
 D'Olier Street
 Dublin 2

This notice of application has been filed with the District Court Clerk at and issued to the above return date on the day of 20....

Annex the Original Determination Order or a Certified Copy of Same, Certified by the Applicant as Being a True Copy of the Determination Order

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []

DISTRICT No. []

BETWEEN:

[KATE JONES]

Applicant

-AND-

[TOM SMITH]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

[INSERT NAME AND ADDRESS]

Applicant / Solicitors for the Applicant

Sample Grounding Affidavit in Respect of a Deposit Retention Determination Order

DRAFT ONLY – SHOULD BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []
DISTRICT NO. []

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES ACT
2004 (AS AMENDED)**

BETWEEN:

[KATE JONES]

Applicant

-AND-

[]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party(ies)

AFFIDAVIT OF [INSERT NAME OF DEPONENT]

I, **[KATE SMITH]**, **[INSERT PROFESSION]**, of **[ADDRESS]**, aged 18 years and upwards **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Residential Tenancies Board (the “**RTB**”) on **[DATE OF DETERMINATION ORDER]** (hereinafter referred to as the “**Determination Order**”) pursuant to the Residential Tenancies Act 2004 (as amended) (hereinafter referred to as the “**Act**”) as more fully set out hereunder.
3. **[IF APPLICABLE]** Pursuant to Section 13(1) of the Residential Tenancies (Amendment) Act 2015 which was commenced on 7 April 2016 by the Residential Tenancies (Amendment) Act 2015 (Commencement of Certain Provisions) (No. 2) Order 2016 (Statutory Instrument 151/2016), the Residential Tenancies Board was substituted for the name of the Private Residential Tenancies Board. Section 13(3) of the Residential Tenancies (Amendment) Act, 2015 provides that in any enactment or any instrument under an enactment, references to the Private Residential Tenancies Board shall be construed as references to the Residential Tenancies Board.
4. I say that on **[DATE OF APPLICATION]** I applied to the RTB in my capacity as Tenant for dispute resolution services in connection with a property at **[ADDRESS OF RENTED DWELLING]** (hereinafter referred to as the “**Dwelling**”). My application alleged that **[INSERT DETAIL]**. I beg to refer to a copy of the said application for dispute resolution services upon which marked with the letters and number “**KJ1**” I have signed my name prior to the swearing hereof.
5. By way of background, **[INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE]**.

[IF MATTER DEALT WITH BY ADJUDICATION]

6. I say that following receipt of my application for dispute resolution services, the RTB wrote to the Respondent(s) and to me by letter dated **[INSERT DATE]** informing us that an Adjudication hearing would take place at **[ADDRESS]** on **[DATE]** at **[TIME]**. I beg to refer to a copy of the letter dated **[DATE]** upon which marked with the letters and number **"KJ2"** I have signed my name prior to the swearing hereof.
7. I say that an Adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that:

[INSERT ADJUDICATOR'S DETERMINATION]

I beg to refer to a copy of the Adjudicator's report upon which marked with the letters and number **"KJ3"** I have signed my name prior to the swearing hereof.

8. I say that by letters dated **[DATE]** the Adjudicator's Report was forwarded by the RTB to the Respondent(s) and to me. I beg to refer to a copy of the said letter dated **[DATE]** upon which marked with the letters and number **"XX4"** I have signed my name prior to the swearing hereof.
9. **[IF APPLICABLE]** I say that the Respondent(s) appealed the decision of the Adjudicator, by Appeal Form received by the RTB on **[DATE]**. The grounds of appeal were inter alia that **[INSERT DETAILS]**. I say that by letters dated **[DATE]**, the RTB notified the Respondent(s) and me that a Tenancy Tribunal hearing would take place at **[ADDRESS]** ON **[DATE AND TIME]** to deal with the Respondents' appeal. I beg to refer to copies of said Appeal Form and letters dated **[DATE]** addressed to the Respondent(s) upon which pinned together and marked with the letters and number **"KJ5"** I have signed my name prior to the swearing hereof.

[IF MATTER DEALT WITH BY MEDIATION]

10. **[IF APPLICABLE]** I say that the parties agreed to the dispute being dealt with by Mediation. A telephone Mediation took place on **[INSERT DATE AND TIME]**.
 - a) I say that the parties came to an agreement at the Mediation and neither party withdrew from the mediated agreement within the 10 day 'cooling off' period. Accordingly, the RTB proceeded to make a Determination Order on **[INSERT DATE]** incorporating the terms of the agreement reached. **OR**

b) I say that as the parties failed to reach an agreement at the Mediation/reached an agreement at the Mediation but one/more of the parties to the dispute advised the RTB within 10 days of the Mediation that they wished to withdraw from the agreement, the RTB convened a Tenancy Tribunal hearing to deal with the dispute between the parties.

11. **[IF APPLICABLE]** I say that a Tenancy Tribunal hearing took place as scheduled. Having heard the evidence of the parties, the Tribunal made the following determination -

[INSERT TRIBUNAL DETERMINATION]

12. **[IF APPLICABLE]** I say that the Tenancy Tribunal notified the RTB of its determination pursuant to s.108 of the Act and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act.
13. **OR [IF APPLICABLE]** I say that there was no appeal by either party to the Tenancy Tribunal and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act. **OR**
14. The RTB proceeded to make a Determination Order in terms of the mediated agreement reached between the parties.
15. The terms of the Determination Order were as follows:

[INSERT TERMS OF DETERMINATION ORDER]

I beg to refer to a copy of the said Determination Order dated **[DATE]** [and Tenancy Tribunal Report if applicable] upon which marked with the letters and number “**KJ5**” I have signed my name prior to the swearing hereof.

16. I say that by letters dated **[DATE]**, the Determination Order [and Tenancy Tribunal Report] **[if applicable]** was forwarded by the RTB to the Respondent(s) and to me. I beg to refer to a copy of the said letter sent to the Respondent(s) which marked with the letters and number “**KJ6**” I have endorsed my name upon prior to the swearing hereof.
17. **[IF APPLICABLE]** – [I say that there was no appeal of the decision of the Tenancy Tribunal to the High Court and the Determination Order became binding on the expiry of the 21 day period].

18. I say that the Respondent(s) [has/have] failed to comply with the Determination Order. **[IF APPLICABLE]** – [By letter dated **[INSERT]**, I wrote to the Respondent noting [his/her/their] failure to comply with the Determination Order, and afforded the Respondent(s) a seven day period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice. I beg to refer to a copy of the letter dated **[DATE]** upon which marked with the letters and number “**KJ7**”, I have signed my name prior to the swearing hereof].
19. I say that the Respondent(s) [have/has] failed to comply with the terms of the Determination Order. In particular the Respondent(s) [have/has] failed to pay the sum of €**[INSERT SUM]** to me. In these circumstances, I pray this Honourable Court for the reliefs sought in the Notice of Application herein.

SWORN by the said **[KATE SMITH]** who is personally known to me/who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent **OR** The identity of the deponent has been established by me by reference to a [] containing a photograph of the deponent this day of 20 at

in the City/County of before me a Commissioner for Oaths/Practising Solicitor.

[KATE SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit was filed by the Applicant this day of 20 .

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

[] DISTRICT COURT

DISTRICT No. []

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)**

BETWEEN:

[KATE JONES]

Applicant

-AND-

[TOM SMITH]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party(ies)

AFFIDAVIT OF [KATE JONES]

[]

Applicant / Solicitors for the Applicant

APPENDIX 5

Sample Notice of Application in Respect of Overholding

DRAFT ONLY – SHOULD BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

**DISTRICT COURT AREA OF []
DISTRICT NO. []**

**IN THE MATTER OF SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)**

ON THE APPLICATION OF [NAME] OF [ADDRESS]

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES AND JACK JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

PURSUANT TO SECTION 124 OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)

TAKE NOTICE that the above named Applicant will apply to the District Court sitting at _____ on the _____ day of _____ 20____ at [_____] am/pm (the “return date”) for:

1. An Order against the Respondent(s) of **[ADDRESS OF RESPONDENT(S)]** in the county of **[INSERT COUNTY]** (in the above Court (area and) district under the provision of the enactment stated above, pursuant to Section 124 of the Residential Tenancies Act 2004 (as amended) (hereinafter the “Act”) directing the Respondent to comply forthwith with the following terms of a Determination Order (a certified copy of which is attached hereto) dated **[INSERT DATE]** and issued by the Notice Party on **[INSERT DATE]** to the Respondent(s) regarding the tenancy of a premises at **[DWELLING ADDRESS]** (the ‘Dwelling’);

(1) [INSERT DETAILS OF DETERMINATION ORDER]

2. An Order for Possession of the Dwelling in favour of the Applicant.
3. Further or other order.
4. Costs **[IF APPLICABLE]**.

AND FURTHER TAKE NOTICE that the said application will be grounded upon the proceedings already had herein, this Notice of Application and the Affidavit of **[Tom Smith]** and Declaration of Service thereof, the nature of the case and the reasons to be offered.

The grounds for the application are as follows:

[set out in summary the grounds of the application – for example:

*The relief is sought on the grounds that the Respondent has failed to comply with the Determination Order of the Residential Tenancies Board, a certified copy of which is annexed hereto, and in particular [the failure of the Respondent to **[INSERT DETAIL FROM DETERMINATION ORDER]**].*

Basis of Jurisdiction

The dispute relates to the premises at [DWELLING ADDRESS], being a dwelling situate within the jurisdiction of this Honourable Court.

Particular legal provisions relied on in the application

The within application is made pursuant to Section 124 of the Act.

Details of the Applicant

The Applicant is [INSERT OCCUPATION] with an address at [INSERT ADDRESS]. The Applicant [is / was] the [Landlord] of the Dwelling at the relevant time.

Details of the Notice Party

The Residential Tenancies Board is a body corporate with perpetual succession established pursuant to the Residential Tenancies Act 2004 having its address at Second Floor, O’Connell Bridge House, D’Olier Street, Dublin 2 and engages, *inter alia*, in the resolution of disputes between tenants and landlords pursuant to the Act.

LIST OF DOCUMENTS ON WHICH THE APPLICANT WILL RELY AND COPIES OF WHICH ARE ATTACHED

| | Document | Date | Description |
|----|--|------|-------------|
| 1 | Determination Order of the RTB | | |
| 2. | [e.g. letter(s) notifying the Respondent of the hearing date(s); enclosing the adjudication report; enclosing the Determination Order; warning letters regarding non-compliance] | | |
| 3. | Schedule of Rent Arrears | | |
| 4. | Adjudication Report/Tribunal Report | | |

Dated this day of 20 .

Signed:

(Solicitor for the) claimant

To: District Court Clerk at [ADDRESS]

And: []

(Solicitor for the) respondent of [ADDRESS]

And to: The Residential Tenancies Board
 Second Floor
 O'Connell Bridge House
 D'Olier Street
 Dublin 2

This notice of application has been filed with the District Court Clerk at
..... and issued to the above return date on the day of 20....

Annex the Original Determination Order or a Certified Copy of Same, Certified by the Applicant as Being a True Copy of the Determination Order

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []

DISTRICT No. []

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES AND JACK JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

NOTICE OF APPLICATION

[INSERT NAME AND ADDRESS]

Applicant / Solicitors for the Applicant

Sample Grounding Affidavit in Respect of an Overholding Determination Order

DRAFT ONLY – SHOULD BE AMENDED TO REFLECT THE CIRCUMSTANCES OF THE INDIVIDUAL CASE

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

**DISTRICT COURT AREA OF []
DISTRICT NO. []**

**IN THE MATTER OF THE RESIDENTIAL TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE RESIDENTIAL TENANCIES ACT
2004 (AS AMENDED)**

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES AND JACK JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

AFFIDAVIT OF [TOM SMITH]

I, [TOM SMITH], [INSERT PROFESSION], of [ADDRESS], aged 18 years and upwards **MAKE OATH** and say as follows:

1. I am the Applicant in the above entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears I believe same to be true.
2. I make this Affidavit for the purpose of grounding an application for enforcement of a Determination Order made by the Residential Tenancies Board (the “RTB”) on [DATE OF DETERMINATION ORDER] (hereinafter referred to as the “Determination Order”) pursuant to the Residential Tenancies Act 2004 (as amended) (hereinafter referred to as the “Act”) as more fully set out hereunder.
3. [IF APPLICABLE] Pursuant to Section 13(1) of the Residential Tenancies (Amendment) Act 2015 which was commenced on 7 April 2016 by the Residential Tenancies (Amendment) Act 2015 (Commencement of Certain Provisions) (No. 2) Order 2016 (Statutory Instrument 151/2016), the Residential Tenancies Board was substituted for the name of the Private Residential Tenancies Board. Section 13(3) of the Residential Tenancies (Amendment) Act, 2015 provides that in any enactment or any instrument under an enactment, references to the Private Residential Tenancies Board shall be construed as references to the Residential Tenancies Board.
4. I say that on [DATE OF APPLICATION] I applied to the RTB in my capacity as Tenant for dispute resolution services in connection with a property at [ADDRESS OF RENTED DWELLING] (hereinafter referred to as the “Dwelling”). My application alleged that [INSERT DETAIL]. I beg to refer to a copy of the said application for dispute resolution services upon which marked with the letters and number “TS1” I have signed my name prior to the swearing hereof.
5. By way of background, [INSERT DETAILS OF THE TENANCY SUCH AS THE DATE OF COMMENCEMENT, THE RENT AGREED, THE DEPOSIT PAID, THE DATE OF VACATION, THE TERMINATION OF THE TENANCY, AS APPROPRIATE].

[IF MATTER DEALT WITH BY ADJUDICATION]

6. I say that following receipt of my application for dispute resolution services, the RTB wrote to the Respondent(s) and to me by letter dated **[INSERT DATE]** informing us that an Adjudication hearing would take place at **[ADDRESS]** on **[DATE]** at **[TIME]**. I beg to refer to a copy of the letter dated **[DATE]** upon which marked with the letters and number **"TS2"** I have signed my name prior to the swearing hereof.
7. I say that an Adjudication hearing took place as scheduled. On the basis of the evidence considered, the Adjudicator determined that:

[INSERT ADJUDICATOR'S DETERMINATION]

I beg to refer to a copy of the Adjudicator's report upon which marked with the letters and number **"TS3"** I have signed my name prior to the swearing hereof.

8. I say that by letters dated **[DATE]**, the Adjudicator's report was forwarded by the RTB to the Respondent(s) and to me. **[CHECK DETAILS OF LETTER]**. I beg to refer to a copy of the said letter dated **[DATE]** sent to the Respondent(s) upon which marked with the letters and number **"TS4"**, I have signed my name prior to the swearing hereof.
9. **[IF APPLICABLE]** I say that the Respondent(s) appealed the decision of the Adjudicator, by Appeal Form received by the RTB on **[DATE]**. The grounds of appeal were *inter alia* that **[INSERT DETAILS]**. I say that by letters dated **[DATE]**, the RTB notified the Respondent(s) and me that a Tenancy Tribunal hearing would take place at **[ADDRESS]** ON **[DATE AND TIME]** to deal with the Respondents' appeal. I beg to refer to copies of said Appeal Form and letters dated **[DATE]** addressed to the Respondent(s) upon which pinned together and marked with the letters and number **"TS5"** I have signed my name prior to the swearing hereof.

[IF MATTER DEALT WITH BY MEDIATION]

10. **[IF APPLICABLE]** I say that the parties agreed to the dispute being dealt with by Mediation. A telephone Mediation took place on **[INSERT DATE AND TIME]**.
 - a) I say that the parties came to an agreement at the Mediation and neither party withdrew from the mediated agreement within the 10 day 'cooling off' period. Accordingly, the RTB proceeded to make a Determination Order on **[INSERT DATE]** incorporating the terms of the agreement reached. **OR**

b) I say that as the parties failed to reach an agreement at the Mediation/reached an agreement at the Mediation but one/more of the parties to the dispute advised the RTB within 10 days of the Mediation that they wished to withdraw from the agreement, the RTB convened a Tenancy Tribunal hearing to deal with the dispute between the parties.

11. **[IF APPLICABLE]** I say that a Tenancy Tribunal hearing took place as scheduled. Having heard the evidence of the parties, the Tribunal made the following determination -

[INSERT TRIBUNAL DETERMINATION]

12. **[IF APPLICABLE]** I say that the Tenancy Tribunal notified the RTB of its determination pursuant to s.108 of the Act and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act.
13. **OR [IF APPLICABLE]** I say that there was no appeal by either party to the Tenancy Tribunal and the RTB proceeded to make a Determination Order on **[DATE]** in accordance with s. 121 of the Act. **OR**
14. The RTB proceeded to make a Determination Order in terms of the mediated agreement reached between the parties.
15. The terms of the Determination Order were as follows:

[INSERT TERMS OF DETERMINATION ORDER]

I beg to refer to a copy of the said Determination Order dated **[DATE]** **and Tenancy Tribunal Report if applicable** upon which marked with the letters and number “**TS6**” I have signed my name prior to the swearing hereof.

16. I say that by letters dated **[DATE]**, the Determination Order **and Tenancy Tribunal Report [if applicable]** to the Respondent(s) and me. **[CHECK DETAILS OF LETTER]**. I beg to refer to copies of the said letters dated **[DATE]** addressed to the Respondent(s) upon which pinned together and marked with the letters and number “**TS7**” I have signed my name prior to the swearing hereof.
17. **[IF APPLICABLE]** – [I say that there was no appeal of the decision of the Tenancy Tribunal to the High Court and the Determination Order became binding on the expiry of the 21 day period].

18. I say that the Respondent(s) [has/have] failed to comply with the terms of the Determination Order **[INSERT DETAILS OF NON-COMPLIANCE]**. **[IF APPLICABLE]** – [By letter dated **[INSERT]**, I wrote to the Respondent(s) noting their failure to comply with the Determination Order, and afforded the Respondent(s) a seven day period within which to comply with the terms of the Determination Order failing which proceedings would issue without further notice. I beg to refer to a copy of the letters dated **[DATE]** which pinned together and marked with the letters and number “**TS8**”, I have signed my name prior to the swearing hereof.]
19. I say that notwithstanding the foregoing, the Respondent(s) [has/have] failed to comply with the terms of the Determination Order **[INSERT DETAIL]**. In particular I say that they have failed to vacate the dwelling and to pay outstanding rent arrears. I beg to refer to a Statement of Rent Arrears confirming that rent arrears up to **[DATE]** are in the sum of €**[INSERT SUM]** upon which marked with the letters and number “**TS9**” I have signed my name prior to the swearing hereof. [I say that the Applicant also seeks any further arrears which may have accrued from **[DATE]** to the date of the hearing.] In these circumstances, I pray this Honourable Court for the relief sought in the Notice of Application herein.

SWORN by the said **[TOM SMITH]** who is personally known to me/who has been identified to me by

who is personally known to me and who has certified to me his/her personal knowledge of the deponent **OR** The identity of the deponent has been established by me by reference to a [] containing a photograph of the deponent this day of 20 at

in the City/County of before me a Commissioner for Oaths/Practising Solicitor.

[TOM SMITH]

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit was filed by the Applicant this day of 20 .

**THE DISTRICT COURT
AN CHUIRT DUICHE**

Record No. []

DISTRICT COURT AREA OF []

DISTRICT No. []

**IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT 2004 (AS AMENDED)
APPLICATION UNDER SECTION 124 OF THE
RESIDENTIAL TENANCIES ACT 2004
(AS AMENDED)**

BETWEEN:

[TOM SMITH]

Applicant

-AND-

[KATE JONES AND JACK JONES]

Respondent(s)

-AND-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

AFFIDAVIT OF [INSERT NAME OF DEPONENT]

[]

Applicant / Solicitors for the Applicant

APPENDIX 6

Sample Statutory Declaration of Service of a document by registered post

Schedule C

O.41, r. 14

District Court Area of []

District No. []

Record number: []

Between:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent(s)

-and-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

STATUTORY DECLARATION AS TO SERVICE BY REGISTERED PREPAID POST

Courts Act 1964, section 7

I, [TOM SMITH] of [INSERT ADDRESS], aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I served the Notice of Application in the within proceedings dated [INSERT]; Grounding Affidavit sworn [INSERT] and exhibit thereto by [posting a true copy thereof at [INSERT TIME] a.m./p.m. on the [INSERT DAY] day of [INSERT MONTH] 201[] at [INSERT POST OFFICE] Post Office in a registered prepaid envelope addressed to the Respondent at the address stated in this document] OR [by depositing a true copy thereof in an envelope at [INSERT TIME] a.m./p.m. on the [INSERT DAY] day of [INSERT MONTH] 201... with [INSERT PROVIDER] a postal service provider authorised to provide a registered items service and registered as such in the register maintained under section 40 of the Communications Regulation (Postal Services) Act 2011.]
2. The address to which the envelope was sent is the last known residence or most usual [place of residence/place of business] of the person to whom the document is directed.
3. The certificate of posting of the envelope is attached.
4. I am [the Applicant] or [authorised by the person bringing/appealing the proceedings to post the said envelope].
5. At the time of posting the envelope the original document was duly issued [and stamped].
6. [The envelope has not to this date been returned undelivered to the sender] **OR** [The envelope has been recorded as delivered on the day of 201...].

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:

Declared before me

a [Judge of the District Court/commissioner for oaths/practising solicitor/peace commissioner/notary public] by the said
who is personally known to me/who is identified to me by _____ who is personally known to me/whose identity has been established to me before the taking of this Declaration by the production to me of (passport no _____ issued on the _____ day of 201... by the authorities of _____ which is an authority recognised by the Irish Government, / national identity card no. _____ issued on the _____ day of 201... by the authorities of _____ which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement, / Aliens Passport no. _____ issued on the _____ day of _____ by the authorities of _____ which is an authority recognised by the Irish Government, / refugee travel document no. _____ issued on the _____ day of _____ by the Minister for Justice and Equality, / travel document (other than refugee travel document) issued on the _____ day of 201... by the Minister for Justice and Equality,) at this _____ day of 201...

Signed:

Judge of the District Court / Commissioner for Oaths / Practising Solicitor / Peace Commissioner / Notary Public.

This statutory declaration has been filed with the District Court Clerk at _____ on the _____ day of _____ 201....

***NOTE:**

This declaration must be made **not** earlier than ten days after the day on which the envelope is posted.

APPENDIX 7

Sample Statutory Declaration of Service of a document by personal service

Statutory declaration of personal service of a document

Schedule C

O.41, r. 14

District Court Area of [CORK]

District No. []

Record number: []

Between:

[TOM SMITH]

Applicant

-and-

[KATE JONES]

Respondent(s)

-and-

THE RESIDENTIAL TENANCIES BOARD

Notice Party

STATUTORY DECLARATION AS TO PERSONAL SERVICE

I, [TOM SMITH] of [ADDRESS], aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I duly served Notice of Application in the within proceedings dated [INSERT]; Grounding Affidavit of [INSERT] sworn [INSERT] and exhibit thereto on the [INSERT DAY] day of [INSERT MONTH] 201... at [INSERT TIME] am/pm by handing a copy thereof to [INSERT RESPONDENT NAME] at [ADDRESS WHERE SERVICE TOOK PLACE].

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:

Declared before me

a [Judge of the District Court/commissioner for oaths/practising solicitor/peace commissioner/notary public] by the said
who is personally known to me/who is identified to me by _____ who is personally known to me/whose identity has been established to me before the taking of this Declaration by the production to me of (passport no _____ issued on the _____ day of 201... by the authorities of _____ which is an authority recognised by the Irish Government, / national identity card no. _____ issued on the _____ day of _____ 201... by the authorities of _____ which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement, / Aliens Passport no. _____ issued on the _____ day of _____ by the authorities of _____ which is an authority recognised by the Irish Government, / refugee travel document no. _____ issued on the _____ day of _____ by the Minister for Justice and Equality, / travel document (other than refugee travel document) issued on the _____ day of _____ 201... by the Minister for Justice and Equality,) at this _____ day of _____ 201...

Signed:

Judge of the District Court / Commissioner for Oaths / Practising Solicitor / Peace Commissioner / Notary Public.

This statutory declaration has been filed with the District Court Clerk at _____ on the _____ day of _____ 201....

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Contact Details

Residential Tenancies Board
Po Box 47, Clonakilty, County Cork.

01 702 8100/0818 30 30 37

enforceorder@rtb.ie

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please visit www.rtb.ie

**RTB**

Bord um Thionóntachtaí Cónaithe
Residential Tenancies Board