

Guide to the Residential Tenancies Board Dispute Resolution Service

The Residential Tenancies Board Dispute Resolution Service is designed to be informal. It is not necessary to have representation at an adjudication or tribunal hearing. If you are unclear on any part of the process you can contact your local Threshold office for advice.

What is covered by the RTB Dispute Resolution Mechanism?

The Residential Tenancies Board (RTB) Dispute Resolution Service provides an informal method for resolving disputes in relation to tenancies in Ireland. The majority of tenancies are covered although there are a number of exceptions including social housing tenancies, business lettings and situations where the property is shared with the owner. If you are unclear as to whether or not your tenancy comes under the Residential Tenancies Act and is covered by the RTB Dispute Resolution Mechanism, you should contact Threshold for clarification. Both tenants and landlords can make a complaint to the RTB.

Examples of the types of complaints dealt with by the RTB are: the non-return of a deposit by a landlord; situations where a tenant has been issued with an invalid notice of termination or failure of a landlord to carry out necessary repairs.

Deciding to make an application.

It is important that you have a reasonably strong case before you decide to make a complaint to RTB and you should bear in mind that your landlord may counterclaim and an award could be made the RTB against you. It is also important that you have actual evidence and proof to back up your complaint. Tenants can avail of the Dispute Resolution Service even if the landlord has failed to register the tenancy. Landlords who have not registered the tenancy cannot take a case to the RTB but they may counter claim if the tenant takes a case.

Specific Time Limits to bring a Case

There are time limits that apply when making a complaint in certain specific circumstances. These limits include:

- 28 days to contest the validity of a Notice of Termination received
- 90 days in respect of intended rent increase
- 1 year from date of non-compliance with a Determination Order to seek enforcement

Contact Threshold if you are unclear about time limits that may apply to your case.

The Application Process

If you decide to make a complaint, an application can be made online at www.rtb.ie mediation is free and adjudication costs €15. Alternatively the RTB application form may be downloaded from the Threshold website www.threshold.ie and posted to the RTB-the fee for a hard copy is €25. It is important that you keep a copy of the completed application form.

Making your complaint

It is important that you put forward as strong a case as possible when you make a complaint to the RTB. The quality of the evidence you submit will have a big bearing on whether or not you are successful in your application. The types of documents that can be submitted as evidence are varied

but could include items such as a lease agreement, Rent Book, correspondence with your landlord or witness statements. It is strongly advisable to submit a comprehensive statement of events set out in chronological order which gives an overview of your entire case. It can be very helpful to be able to refer to the statement at the actual hearing itself.

All evidence and notification of the intention to call witnesses must be submitted to the RTB a minimum of 10 days before the actual hearing. However, additional evidence may be accepted, closer to the hearing or at the hearing itself, at the discretion of the adjudicator/tribunal chairperson. If your landlord submits additional evidence or calls witnesses on the day of the hearing, you should request time to review the additional information. It should be noted that all evidence you submit to the RTB will be copied to your landlord and vice versa. (It should be noted that witness expenses are generally not awarded even if you win the case.)

RTB Dispute Resolution Process:

When you make a complaint to the RTB, there are two options as to how it is dealt with; Mediation or Adjudication.

1. Mediation:

If there is the prospect of reaching an agreement with your landlord and both parties consent, a Mediation Process can be entered into. A Mediator works with both parties to attempt to find a solution to the issue at hand to reach a resolution with which both parties agree. Mediation can be done by telephone. If agreement is reached and it is not appealed it will become a binding determination order of the RTB. Before opting for Mediation, the follow should be considered:

- If there is no prospect of agreement adjudication is a better avenue
- If no agreement reached by the parties, a binding Determination Order does not issue

2. Adjudication

Adjudication

An adjudication hearing is a relatively informal, confidential process where an independent third party, an adjudicator, will adjudicate following hearing both sides of the case. To take a case to the RTB Adjudication, it is not necessary to be familiar with the Residential Tenancies Act 2004 or other housing law. The Adjudicator will have an in depth knowledge of housing law and will make his/her decision based on the information and evidence placed before them. The most important thing for an applicant is to put forward their case in a clear, accurate and comprehensive fashion.

The Hearing

- Person who submitted the application (the applicant) states their case first. You may call witnesses to support you case
- The respondent (landlord) is the given opportunity to cross examine the tenant and any witnesses
- Landlord will be then given opportunity to state their case

- Tenant will then be given the opportunity to cross examine the landlord. You should prepare a list of questions prior to hearing. Other relevant questions may occur to you during the hearing so it is advisable to make a note of these questions as they arise.
- Adjudicator may ask questions of either party during the process
- The decision of the Adjudicator is not given on the day. The report of the Adjudicators issues to both parties in due course
- Following the receipt of the Adjudicators report, either party may appeal to a Tribunal within 10 days.
- If the Adjudicators Report is not appealed, the Board of the RTB will issue a Determination Order which is legally binding and enforceable through the courts

Appealing a adjudication decision

You should consider carefully whether there are valid grounds to appeal a decision of an adjudication hearing to Tribunal. There will need to be new or additional information or evidence that was not taken into account at the adjudication. There is always the risk that the decision of the tribunal will be less favourable than that of the Adjudicator.

- Attempt to identify weaknesses in your case prior to deciding to appeal the Adjudicators Report.
- Complete the appeal form setting out relevant grounds for appeal accompanied with the €100 fee.
- Parties will be notified that an appeal has been lodged and will be notified in due course of the impending Tribunal Hearing date.

RTB Tribunal

A RTB Tribunal is a relatively formal process and is a public hearing. The Tribunal is made up of three members including the chairperson. Parties are required to give evidence under oath and a stenographer records what is stated verbatim. You will be issued with notice of the Tribunal Hearing. The Tribunal may summons witnesses and/or require the production of any documentation

- The appellant (person appealing the Adjudicators Report) will state their case first
- The respondent will then have the opportunity to cross examine the appellant's evidence. It is important to prepare a list of questions prior to hearing. Additional questions may occur to you during the hearing so it is advisable to make a note of these questions as they arise.
- The respondent may then state their case
- The appellant gets the opportunity to cross examine the respondent, their evidence and their witnesses
- Important to summarise your case at the end with a brief closing statement outlining all the main points of your case
- The Tribunal will not provide their decision on the day. It will be sent to both parties in due course
- A Tribunal's finding may only be appealed to the High Court on a point of law
- If the Tribunal's report is not appealed on a point of law, it will become legally binding, enforceable in the courts.

Enforcement:

If a Determination Order is not complied with, a tenant is required to notify the RTB in writing requesting enforcement proceedings within one year from the date of the offence

Unable to attend/ Non Attendance

If you are unable to attend a scheduled RTB hearing it is important that you:

- Notify the RTB in advance of the hearing and provide evidence and reasons for your non-attendance requests an adjournment. An adjournment may be granted if the RTB consider the reason sufficiently serious. Otherwise the hearing may proceed without you with a less favourable outcome and cost may be awarded against you. If you fail to attend the scheduled hearing, the Adjudicator is entitled to award costs of the Adjudication against a non-attending applicant party
- A Tribunal may also proceed with the hearing and can order the non-appearing party to pay the hearing costs: €3000 - €5000

General points on Adjudications and Tribunals

- Notify the RTB immediately of change of address/ contact details
- Anticipate the landlord's case and be in a position to refute/rebut
- Have original documents, photographs present on the day of the hearing
- It is an offense to provide false or misleading evidence
- Ensure all rent has been paid up to date as this is a legal obligation
- Do not swear, use offensive language or make derogatory remarks
- Be polite and show courtesy at all time to the Adjudicators & Tribunals member
- Ensure your mobile phone switched off prior to going into the hearing
- If an issue arises which you find unclear, ask for clarification from the Adjudicator or the Tribunal

Deposit Retention Complaints

A deposit can only be retained in very limited situations which are: rent arrears; damage to the property above normal wear and tear or outstanding utility bills, where the bills are in the name of the landlord. A landlord must be able to prove that he/she had a valid reason to retain part or all of the deposit and be able to provide documentary evidence to back up the claim.

The documentation you submit can have a big influence on the outcome of the case. A rent book or bank statements can help prove you paid your rent; photographs of your rented property when you moved in and out can help prove you did not damage the property. Copies of correspondence with your landlord, be it a request to have your deposit returned or a request for repairs to be carried out, can also be useful. As with all complaints, you should include a comprehensive statement of events.

Invalid Notice of Termination Complaints

The manner in which a tenancy may be legally terminated is very specific and is laid out in the Residential Tenancies Act 2004. Threshold can advise you if your tenancy has been terminated invalidly. It is particularly important in cases of invalid notice of termination that you include all correspondence with your landlord, particularly a copy of the notice of termination. It can be helpful to be able to prove that the landlord was informed in writing that a notice of termination issued is invalid. It is important to note that there is a 28 day time limit to contest the validity of a Notice of Termination received with the RTB.

Standards and Repairs Complaints

If you are making a complaint to the RTB in respect of standard and repairs, it is important to be able to demonstrate that the landlord was made aware of the issue and given a reasonable amount of time to rectify the matter. Receipts for any costs incurred by the tenant should be submitted and you should also consider requesting your Local Authority to carry out an inspection to see if the property meets Minimum Standards Legislation. A copy of the report of this inspection should also be submitted.

Illegal Eviction Complaints

If you are threatened with illegal eviction it is crucial that you keep an accurate log of events which can be submitted to the RTB as evidence should you make a complaint. Audio/ Video Recording of the illegal eviction, coloured photographs witness statements can all help strengthen your case. You should also submit any correspondence you have had with the landlord and retain any receipts for expenses incurred by you, such as the cost of hotel accommodation, as a result of the illegal eviction.

Further Advice

If you need further advice in relation to making a complaint to the RTB please contact your local Threshold office. Extensive information on your rights as a tenant can be found at www.threshold.ie