

**A
BRIEF
GUIDE
TO
THE
RENT
TRIBUNAL**

FOREWORD BY THE TANAISTE AND THE MINISTER FOR THE ENVIRONMENT

For many years there has been a crying need to introduce greater fairness and equity into the relationship between landlords and tenants. For this reason, I am pleased to have been in a position to have introduced the Housing (Private Rented Dwellings) (Amendment) Act, 1983, which led to the establishment of the Rent Tribunal on the 2nd August, 1983 to determine the terms of tenancy of certain dwellings.

If it is to work, of course, it is vital that both tenants and landlords know the main provisions of the Act with particular reference to the Rent Tribunal. This guide was prepared by my Department for that purpose. Although it is not an authoritative interpretation of the law, it is intended to offer information and assistance to all who are concerned in this area. I hope you will find it of help. If in any doubt you should consult a solicitor, a legal advice centre or a voluntary organisation dealing with landlord and tenant matters.

Dick Spring T.D.

Tánaiste and Minister for the Environment

THE HOUSING (PRIVATE RENTED DWELLINGS) ACT, 1982

This Act deals mainly with dwellings formerly controlled under the Rent Restrictions Act.

The Act provides for:

- a measure of security of tenure for tenants of such dwellings and their families;
- a method of determining rent when the landlords and tenant disagree;
- compensation for tenants on quitting a dwelling, and
- a rent allowance scheme for tenants, administered by the Minister for Social Welfare.

Under the 1982 Act the District Court sets the terms of tenancy of formerly controlled dwellings. The District Court also acts with regard to applications for recovery of possession of a dwelling by a landlord and for compensation for tenants on quitting a dwelling.

The principal effect of the 1983 Act is to substitute the Rent Tribunal for the District Court in determining the terms of tenancy. The District Court continues to deal with the other matters assigned to it under the 1982 Act.

A Brief Guide to the 1982 Act is available from:

Rent Tribunal
2nd Floor
O'Connell Bridge House
D'Olier Street
Dublin 2

THE SCOPE OF THE RENT TRIBUNAL

The Rent Tribunal was set up to fix the terms of tenancy of dwellings formerly controlled under the Rent Restrictions Acts. The Rent Tribunal does not deal with other types of private rented accommodation.

Q.

How do I know if my dwelling was controlled under the Rent Restrictions Acts?

A.

A dwelling could have been controlled only if it was built before 1941 and was below certain rateable valuations. A good rule of thumb is: if the dwelling was let unfurnished and the rent remained the same over a number of years prior to the 1982 Act, it was probably a controlled dwelling. If you are unsure you should consult a solicitor.

Q.

If the dwelling was controlled, is the tenant now protected?

A.

Yes. If the dwelling was controlled on July 25th, 1982, the tenant is protected under the 1982 Act.

WHAT DOES THE RENT TRIBUNAL DO?

If the landlord or the tenant of a formerly controlled dwelling applies to it, the Rent Tribunal will fix the terms of tenancy, including the rent for the dwelling.

Q.

Does the Rent Tribunal fix only the rent for the dwelling?

A.

No. The Tribunal will fix the other terms of tenancy as well as the rent.

Q.

What is meant by the 'other terms of tenancy'?

A.

The 'other terms of tenancy' include agreements concerning the use of the dwelling, such as, the responsibility for repairs, insurance and any other charges that might need to be paid in respect of the dwelling.

Q.

Does the Rent Tribunal deal with other disputes?

A.

No. All other matters arising under the 1982 Act - such as an application for recovery of possession by the landlord - come within the jurisdiction of the District Court.

HOW TO APPLY TO THE TRIBUNAL

All applications to the Rent Tribunal must be made on a standard form:

RT1 in respect of first-time determinations by the Tribunal,
RT3 in cases where the determination of the terms of tenancy were
previously made by either the Tribunal or District court.

These forms are available from:

Rent Tribunal
2nd Floor
O'Connell Bridge House
D'Olier Street
Dublin 2

The completed form should be returned to the same address.

Q.

Who can apply to the Rent Tribunal?

A.

Either the landlord or the tenant can apply.

Q.

Can a solicitor apply on my behalf?

A.

Yes. Your solicitor can apply on your behalf.

RENTS SET BY THE TRIBUNAL

Where a landlord and tenant cannot reach an agreement on the rent for a dwelling either may apply to the Rent Tribunal to have the rent fixed. In fixing a rent the Tribunal will take into account the factors set out below. The Tribunal will also have regard to any improvements carried out by the tenant to the dwelling.

Q.

If the tenant does not agree with the amount of the new rent being asked by the landlord, can the tenant be forced to accept it?

A.

No. If the tenant disagrees with the proposed rent, it is up to the landlord to apply to the Tribunal to fix the rent - though the tenant may apply if he wishes.

Q.

What factors will the Tribunal take into account in fixing a new rent?

A.

In fixing a new rent the Tribunal will have regard to:

- the nature, character and location of the dwelling,
- the other terms of tenancy,
- the means of the landlord and tenant,
- the date of purchase of the dwelling by the landlord and the amount he paid for it ,
- the length of the tenant's occupancy,
- the number and ages of the tenant's family residing in the dwelling.

Q.

Will improvements carried out by the tenant be taken into account by the Tribunal in fixing the rent?

A.

Yes. Any addition to or alteration of the dwelling carried out by the tenant or his predecessors, on or after 31st December, 1960 which adds to the present letting value of the dwelling will be taken into account. In review applications any improvements carried out by the tenant since the date of the previous determination of the terms of tenancy will be taken into account.

Improvements include the provision of any service to the dwelling such as water supply, toilet facilities etc., but do not include painting or decorating, or repairs unless such repairs were the landlord's responsibility and he failed to carry them out.

HOW THE TRIBUNAL WORKS

The Rent Tribunal determines applications on the basis of written submissions made to it and oral hearings held by it. The Tribunal requires that landlords and tenants applying to it furnish certain written information. Any information provided by one party will be forwarded to the other party. The Tribunal will hold an oral hearing if either party requests it but the case can be determined solely on the basis of written submissions. An inspection of the dwelling will normally be carried out by the Tribunal, which would usually include a member who has valuation expertise.

Q.

What is the difference between an oral hearing and a written determination?

A.

Both types of cases will be determined on the basis of the same criteria for fixing the terms of tenancy. The difference between the two procedures is that for a written determination neither party need attend before the Tribunal.

Q.

Are there time limits for applying for oral hearings?

A.

Yes. If you are the person applying to the Tribunal to fix the terms of tenancy of a dwelling and if you wish an oral hearing to be held you should make your request at the time of application. If you are the other party (respondent) you must make your request within 14 days of receipt of notification from the Tribunal of an application having been made.

THE CONDUCT OF ORAL HEARINGS

Oral hearings are held before three members of the Tribunal. The proceedings will be as informal as possible and the parties may present their own cases or have somebody appear on their behalf.

Q.

Will I be allowed legal representation at the hearing?

A.

Yes. You may be represented by a solicitor or by any other person of your choice. If you choose to be legally represented you must give seven days notice of your intention to the other party and to the Tribunal. Without such notice, you may not be legally represented.

Q.

Will I be allowed to present evidence – valuer’s reports etc. - at the hearing?

A.

Yes.

Q.

Will I be allowed to question evidence?

A.

Yes.

Q.

Who will bear the costs of the hearing?

A.

The Rent Tribunal now has greater discretion in awarding costs and may award costs in any case coming before it. Written and oral cases will be treated equally in the awarding of costs. The new arrangements apply to applications received on or after 1 July, 1988. In the case of applications on hand before that date, costs are generally awarded as follows. Where the landlord requests the oral hearing, he is liable for the tenant's cost and expenses arising out of the hearing other than those of legal representation. However, the landlord will be responsible for the tenant's costs and expenses of legal representation at the hearing where the landlord first opts for legal representation.

Q.

How will I know if the other party is to be legally represented?

A.

You will have received notice of their intension at least seven days prior to the hearing. Once you have received such notice you are entitled to have legal representation at the hearing without giving notice to the other party or to the Tribunal

DECISIONS OF THE RENT TRIBUNAL

The decision of the Rent Tribunal on an application will be communicated in writing to both parties as soon as possible after the date of the determination. The decision will be sent in the form of a signed order of the Tribunal and will include the terms of tenancy of the dwelling.

Q.

When will the new rent come into force?

A.

The new rent will come into force on the first gale day (the first normal day for paying rent) after the landlord has registered the new rent with the housing authority. The landlord must also sign a copy of the terms of tenancy as determined by the Tribunal and give it to the tenant.

Q.

How does the landlord register a new rent?

A.

The landlord must notify the housing authority of a new rent on a form which is available from any housing authority. Where the new rent is lower than the existing rent, the landlord is not required to register it and the rent comes into force on the first gale day after the decision of the Tribunal.

RENT ALLOWANCE

The Minister for Social Welfare administers a scheme of rent allowances for tenants of formerly controlled dwellings suffering hardship as a result of an increase in rent. To be entitled to a rent allowance the rent must have been fixed by the Rent Tribunal (or by the District Court under the 1982 Act) and the tenants means must be below a certain amount.

Where tenants' entitlement to a rent allowance is accepted they will still be required to pay at least the minimum rent of €5.50 (from July, 1993). Rent allowances are not payable in respect of rents fixed by agreement between landlords and tenants.

Details of the scheme and claim forms can be obtained from your local Social Welfare Services Office or from:

Rent Allowance Section,
Social welfare Services Office,
Government Buildings,
Ballinalee Road,
Longford

LoCall: 1890 927 770

LEGISLATION

Copies of the relevant Acts and Regulations:

- Housing (Private Rented Dwellings) Act, 1982:-
- Housing (Private Rented Dwellings) (Amendment) Act, 1983:-
- Housing (Private Rented Dwellings) Regulations, 1982:-
- Housing (Private Rented Dwellings) (Amendment) Regulations, 1983:-
- Housing (Rent Tribunal) Regulations, 1983:-
- Housing (Private Rented Dwellings) (Standards) Regulations, 1984:-
- Housing (Rent Tribunal) Regulations, 1983 Amendment Regulations, 1988:-
- Housing (Standards for Rented Houses) Regulations, 1993.

can be purchased from:-

Government Publications Sale Office,
Sun Alliance House,
Molesworth Street,
Dublin 2.