

IRISH PROPERTY OWNERS ASSOCIATION



**Submission to the Joint Committee on
Environment, Transport, Culture and
Gaeltacht**

**A Rental Deposit Protection Scheme
Discussion**

4th October 2011

Chairman, Members of the Joint Committee on Environment, Transport, Culture and Gaeltacht.

Thank you for the invitation to participate in the discussion on a Rental Deposit Protection Scheme.

Outline

The Irish Property Owners Association (IPOA) was established in 1993, and is the National Representative Organisation for property owners in the private rental sector (landlords). We promote professionalism, educate and advise property owners on the day to day running of their rental properties, and all aspects of legislative compliance. We campaign and lobby for change and look for fair and balanced treatment for landlords from Government, service providers, media etc. A non-profit organisation, funded by landlords subscription, we hold information evenings throughout the country. We issue quarterly newsletters, monthly emails, and produce an annual yearbook/diary. We supply legal documents, for example tenancy agreements, rent books, termination notices, etc. Our offices are open 5 days a week 9-5 with a drop in facility, phone contact is available during these hours, and access to our comprehensive website is available 24 hours a day.

History

In 1999, the IPOA were invited and accepted with 6 other organisations to serve on the Commission on the Private Residential Sector. A package of measures was negotiated, and while not all were palatable to all parties, they were agreed to and signed off as a reasonable compromise, and the Commission Report, produced in 2000 is the basis of the current legislation. The Residential Tenancies Bill 2003 was drafted, guillotined without adequate debate and amendment, and signed into law (Residential Tenancies Act 2004). The dispute resolution service of the PRTB was put on a statutory basis and landlord/tenant disputes were no longer allowed to go directly to the Courts.

The PRTB commenced processing disputes but there were teething problems and cases were taking too long to resolve or to hear (up to 3 years). However, the processing of cases has improved significantly, but it is still too slow and unable to affect the necessary efficiency to handle urgent matters. The difficulties encountered require amendment of the Residential Tenancies Act 2004.

The Residential Tenancies Act 2004 is a very comprehensive and lengthy piece of legislation which was designed to incorporate a quick and easy dispute resolution process. There are currently 251,000 registered tenancies with 171,000 landlords housing approximately 550,000 tenants.

In 2010 - 230,000 tenancies registered with the PRTB and there were 958 deposit retention cases taken in 2010. This is less than half of one-percent of all tenancies registered. This is 0.04%.

230,000 tenancies registered 958 deposit retention cases Less than ½% of tenancies registered

958 21% landlords were allowed to keep the full deposit

37% of cases landlords were allowed to retain part of the deposit

58% of cases landlords were allowed to retain all or part of the deposit

This demonstrates a functioning dispute resolution process.

In 0.04%, of tenancies there is a dispute. In 99.96% of tenancies no deposit disputes arise.

The vital question that needs to be answered is in how many cases were the PRTB unsuccessful in getting the deposit refunded to the tenant and how much money is concerned.

We need proper research, and hard statistics, and evidence. This is an emotive issue but a decision needs to be made in a rational manner based on actual facts and figures.

99.96% of deposits are refunded. 0.04% of cases are disputed and are adjudicated upon, how many of these cases that are settled in favour of tenants are not paid? This information is critical to making an informed decision.

In the past, some landlords withheld deposits unfairly and now all or any withholding must be justified and rightly so, see our rent book insert (IPOA deposit refund form).

In 2010, the PRTB were requested to enforce 241 deposit cases, this is 0.001% of all registered tenancies. The figures do not show whether it was the landlord or the tenant who made the request.

Efficiency

Time is of the essence in dealing with deposit refunds, while it is a fact that 99.96% of deposit refunds are dealt with in a prompt manner, efficiency is required in the 0.04% of disputes that arise. The time taken to process cases needs to decrease in order that tenants can receive their deposit back in a timely manner. New Zealand resolve mediation cases on average in 7 business days and at Tribunal Hearings in 19 business days. England and Wales resolve cases in 6-8 weeks.

To this end, the PRTB need:-

- The Residential Tenancies Act 2004 to be amended urgently, to expedite the process thereby reducing the time and cost of prolonged hearings.

It must also be noted that cases taken for disputes can currently cost €8000/9000 to Tribunal Level for a deposit of €400. This is not a cost effective situation, amending the Residential Tenancies Act 2004 can reduce this significantly.

Survey Results – Tenants Satisfaction

Labour Party Survey Private Rented Accommodation - 91% of tenants rated landlords as fair to very good.

Millward Brown Survey - 92% of tenants had a satisfactory relationship with their landlord.

PRTB Commissioned Report - Students in Private Rented Accommodation - 94% of students had a good relationship with their landlord.

Other Jurisdictions

There are Deposit Protection Schemes in England, Wales, and in New Zealand, but none of these have the comprehensive legislation that is already in place in Ireland to deal with deposit retention situations.

New Zealand has a disputes rate of 12%— it costs €32m to administer. They resolve mediation cases within 7 business days and in just 19 business days for Tribunal Hearings.

England and Wales had no legislation to deal with disputes prior to the introduction of the deposit protection legislation in 2007.

In 2009 - 73% of landlords in England and Wales protected deposits. 27% of deposits were not protected in spite of legislation. Some landlords stopped taking deposits but take two/three month's rent in advance.

Scotland is considering introducing legislation based on the Residential Tenancies Act 2004.

Any type of Deposit Protection Scheme will cost money to set up and run. It would also involve time and energy inputting information and/or filling out forms. Running rental property is already very time consuming and a landlord's time managing a rental property is not an allowable expense.

Like every sector in society, there will always be a proportion who will work outside the law. Landlords will opt out of the system and not secure their deposits as is the case in England and Wales. What in effect will happen is that the property owners that always strive to operate in a professional manner, will continue to do so, and would end up with additional costs and bureaucracy, and the PRTB will still have to deal with those cases where the deposit is not protected.

Important Points

- The Residential Tenancies Act 2004 requires immediate amendment to facilitate a speedier dispute resolution service.
- In-house adjudicator/mediators need to be on staff to deal with cases.
- 99.96% of tenancies have no problem with deposits.
- Statistics are required to show how many determination orders have not been satisfied on completion of the dispute resolution service and the amount.
- .001% (241) of deposit retention cases have requested enforcement.
- 99.999% of registered tenancies refund deposits.

In conclusion, Chairman, introducing a Deposit Protection Scheme in Ireland is unnecessary, would be extremely bureaucratic and cumbersome for the .001% of cases outlined. Landlords would require a Rent Protection Scheme as hundreds of thousands of euro have been lost through cases

that have gone through the PRTB, where tenants are over-holding and not paying rent etc. Attached is non-exhaustive list of Determination Orders that have never been satisfied amounting to over €200,000.

Chairman, Committee, thank you for kind attention.

Determinations Orders issued for non-payment of Rent

Awarded to Landlords through the Dispute Resolution Process of the PRTB

DR575/2010	€30,000.00
DR1666/2010	€34,000.00
DR1318P/2010	€7,190.00
DR1455/2009	€789.02
DR673/2009	€12,910.65
TR209/DR1511	€16,671.12
DR1007/2010	€12,000.00
DR1491/2010	€16,400.00
TRDR319/DR422/2010	€20,000.00
DR29/2005	€400.00
DR1394/2007	€1,012.43
DR486/2007	€1,824.55
DR257/2007	€4,788.00
DR877/2008	€3,491.00
DR861/2008	€500.00
DR878/2008	€2,325.00
DR218/2009	€7,345.00
DR1127/2009	€1,500.00
DR275/2009	€2,510.00
DR1593/2008	€1,330.00
DR1584/2009	€5,273.00
TR60/DR1537/2010	€2,400.00
DR629/2010	€1,643.00
DR1253/2010	€391.00
DR1537/2010	€2,400.00
DR283/2010	€1,676.00
DR1536/2010	€7,500.00
DR130/2010	€230.00
DR1604/2010	€803.00
DR07/2010	€765.00
DR325/2011	€1,280.00
DR1880/2010	€765.60
DR1538/2010	€4,825.00
DR200/2010	€1,792.00
DR121/2007	€4,960.00

Total **€213,690.37**

None of these have been paid and it is unlikely they will ever be paid!

The Residential Tenancies Act 2004 without amendment will continue to facilitate these losses.