

ANALYSIS OF DETERMINATION  
ORDERS AND DISPUTES  
referred to the Private Residential  
Tenancies Board (PRTB) 2005 & 2006

Author: Naomi Feely, Centre for Housing Research

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O'Connell Bridge House  
Dublin 2

[www.prtb.ie](http://www.prtb.ie)

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# SECTION 1

## Introduction

This section of the report provides an introduction to this research study. It starts by giving an overview of the work of the Private Residential Tenancies Board and then outlines the main aims and objectives of the research. It also outlines the research methods used and discusses methodological issues.

### 1.1 OVERVIEW OF THE PRIVATE RESIDENTIAL TENANCIES BOARD

The Private Residential Tenancies Board (PRTB) was established on a statutory basis in September 2004 under the Residential Tenancies Act 2004<sup>1</sup>. The PRTB has three main areas of activity:

- To provide a system of registration for all private residential tenancies
- To operate a dispute resolution service to resolve disputes primarily between landlords and tenants and in some instances referrals from third parties
- To provide information, undertake research and to offer policy advice on the private rented sector

#### 1.1.1 REGISTRATION OF PRIVATE RESIDENTIAL TENANCIES

All tenancies falling within the scope of the Residential Tenancies Act, 2004 must be registered with the PRTB. However, there are a number of exceptions to this and the following are some of the dwellings, which do not require registration<sup>2</sup>:

- Business lettings, even where partly residential
- A dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies (i.e. formerly rent controlled dwellings)

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<sup>1</sup> A full electronic version of the Residential Tenancies Act 2004 can be accessed at <http://www.prtb.ie/act.htm>

<sup>2</sup> See Residential Tenancies Act 2004 Section 3(1) and (2)

- A dwelling the subject of a tenancy granted under Pt II of the Landlord and Tenant (Amendment) Act 1980
- A dwelling let by or to a 'public authority' including, but not limited to a local authority or voluntary housing body
- A dwelling occupied under a shared ownership lease
- A holiday let
- A dwelling in which the landlord is also resident
- A dwelling in which the spouse, parent or child of the landlord is resident and there is no written lease or tenancy agreement
- A dwelling where the occupier is entitled to acquire the fee simple

At the end of 2006, the total number of tenancy registrations was almost 138,000, up 53,000 on registrations at the end of 2005. According to the PRTB's website<sup>3</sup>, this had increased to 243,551 by end November 2008.

#### 1.1.2 DISPUTE RESOLUTION PROCESS

The PRTB provides a dispute resolution service for disagreements between landlord and tenants and in some instances third parties (primarily relating to issues of Anti-Social Behaviour). The dispute service provided by the PRTB gives the applicant and respondent the choice between availing of mediation or adjudication. In exceptional circumstances, the Board may arrange for a dispute to be the subject of adjudication or refer the dispute to the Tribunal<sup>4</sup>. Under Section 164 of the Residential Tenancies Act, 2004 the PRTB has the power to appoint mediators and adjudicators.

Both parties in the dispute must agree to mediation in order for it to take place. Mediation is a confidential process whereby a mediator appointed to the case by the PRTB will try to get both parties to come to an agreement during the mediation hearing. At the end of the hearing, if no agreement has been reached and if there are issues remaining, the Board, at the request of either or both parties, refers the dispute to the Tribunal for its determination.

In cases where an agreement has been reached and both parties have confirmed the agreement, the Board makes a Determination Order. The Determination Order is legally binding and if not complied with may be enforced through the courts.

In cases where one or both parties refuse to take part in mediation, an adjudication is set up in order to resolve the dispute. An adjudicator is appointed to the case by the PRTB and fully investigates the dispute. The adjudication hearing, like mediation, is confidential. However, in this instance the adjudicator decides how the dispute is to be resolved. The adjudicator's report of the hearing and his/her determination is issued to the PRTB who forwards this to the parties. The parties have 21 days from the report being served on them to appeal the decision to a Tribunal. Where no appeal is received, a Determination Order is made by the PRTB. Akin to mediation the Determination Order is legally binding and if not complied with may be enforced through the courts.

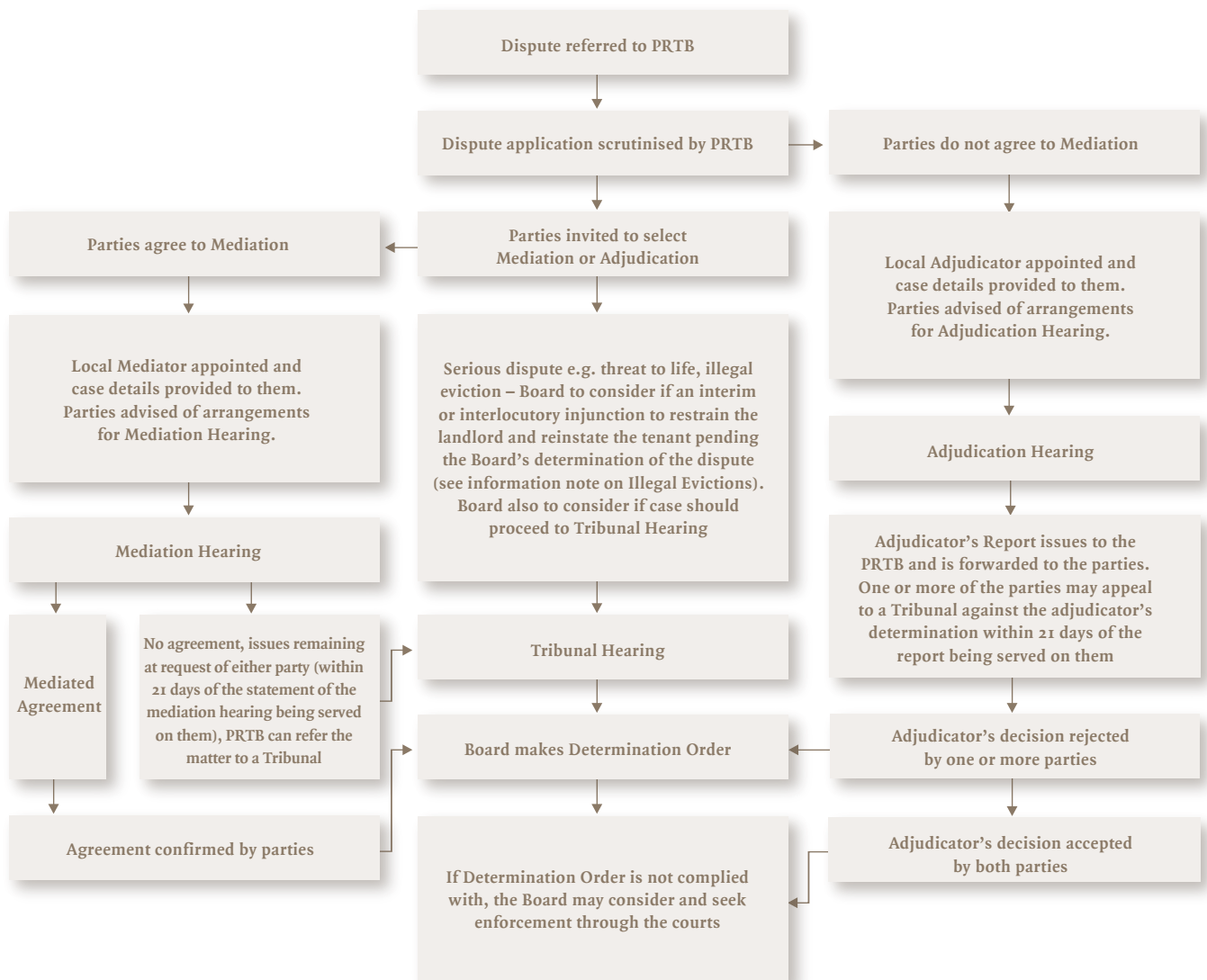
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<sup>3</sup> Op Cit

<sup>4</sup> See Residential Tenancies Act 2004 Section 94

In instances where the dispute referred is extremely serious (for example, Anti-Social Behaviour or illegal eviction) the Board may decide that the dispute should proceed straight to a Tribunal Hearing. In the instance where a dispute is appealed by either party to a Tribunal or where the Board refers the dispute directly to a Tribunal, three members of the PRTB's dispute Resolution Committee<sup>5</sup> are appointed to sit on the Tribunal. One of these three PRTB members acts as chairperson while the other two are ordinary members of the Tribunal. The Tribunal's decision is issued as a Determination Order of the PRTB. This Determination Order is legally binding and may only be appealed, within 21 days of issuing, to the High Court on a point of law. Tribunal hearings, unlike mediation or adjudication hearings are held in public.

Figure 1.1 Stages of the Dispute Resolution Process



<sup>5</sup> The Dispute Resolution Committee is made up of the 15 members of the Board plus seven others.

### 1.1.3 PROVISION OF INFORMATION, RESEARCH AND POLICY ADVICE

In addition to the core functions of tenancy registration and dispute resolution, the PRTB also provides information, research and policy advice on the private rented sector. In order to pursue this role the Board has engaged in a partnership agreement with the Centre for Housing Research whereby the Centre manages and conducts relevant research projects on behalf of the PRTB. It was in this context that the PRTB requested the Centre to undertake this piece of research.

## 1.2 AIMS AND OBJECTIVES OF THE RESEARCH

The main aim of the research was to review and analyse the Determination Orders issued by the PRTB on foot of the decisions made by adjudications and Tenancy Tribunals during 2005 and 2006.

The data used in this report profiles the disputes referred to the PRTB during 2005 and 2006. This profile information addresses the following research questions:

- What is the demographic breakdown of applicants applying to the PRTB for dispute resolution services?
- What is the nature of disputes referred to date?
- What are the most frequently used dispute resolution mechanisms?
- What is the level of attendance and level of legal representation at dispute hearings?
- What is the range of monetary awards?
- What is the length of time involved in various stages of the dispute resolution process?

Detailed examination of the category of dispute will also be outlined from a tenant and landlord perspective. This will include details of the reasons for specific types of dispute, evidence presented in the argument and the outcome of the disputes.

## 1.3 RESEARCH METHODS

### 1.3.1 SOURCE OF DATA

The information used in the research was drawn from the dispute resolution (DR) files held at the PRTB offices. All details pertaining to the dispute is contained in these files. A DR reference number is assigned to each file as it is received by the PRTB. The system of assigning the reference number is as follows – the first file received in 2007 would be referenced as DR1/2007, the second DR2/2007 and all other consecutive applications are referenced accordingly. In the case of tribunals, files retain their DR reference number but they are also given a tribunal (TR) number. Tribunal numbers are assigned as they are scheduled during the year. The first Tribunal is numbered 1, the second

is 2 and so forth. The TR reference also includes the year the Tribunal was held. For example, the reference to the first Tribunal of 2007 would be TR1//2007 if the dispute was sent straight to Tribunal but TR01/286/2007 if it was, for example, the 286th application for dispute resolution services which was appealed to Tribunal after mediation/adjudication. In addition to this the researcher had access to the PRTB's administrative database, which provided information on all disputes referred to the Board.

### 1.3.2 SAMPLING METHODS AND DATA COLLECTION

Data collection began in December 2006 and was confined to completed cases – i.e. files with determination orders issued, cases withdrawn or deemed withdrawn. The files were examined in consecutive order as they were filed in the filing room. At this stage of data collection, files not in the filing room were treated as 'live'<sup>6</sup> cases. Following the initial fieldwork phase, a cross check of the list of files examined against the administrative list of determination orders issued in 2005 and 2006 was undertaken to identify cases completed, but for which data had not been collected. The second phase of data collection focused on locating these files. In most instances the files were located and the necessary data collected. However, in some tribunal cases the tribunal report was used to collect the information required. In these instances some of the required information was not available in the tribunal report and this therefore accounts for the missing data presented in some of the results sections.

Almost one in every seven of the files examined were either withdrawn or deemed withdrawn (see section 2). A case was categorised as withdrawn if there was a written indication from the applicant that they wanted to withdraw their dispute; it was 'deemed withdrawn' when there was sufficient evidence on the file that the applicant was not pursuing their case. For example, a request for the applicant to reply to the PRTB with additional information was unanswered within the time limit given (21 days).

Data from the files was collected using a questionnaire (See Appendix 1), which had been piloted on twenty files to test its suitability. The information collected was primarily quantitative, however, in cases where the information did not fit into the category provided the information was entered as 'other' and in most cases was noted and recoded into a new category.

### 1.3.3 SHORTCOMINGS OF THE DATA

Before proceeding with the presentation of findings it is necessary to outline some shortcomings in the data used for the purpose of this research.

- First, it should be noted that the data collected was primarily quantitative in nature. Information on the files was quite detailed and related to complex situations – in some instances it was difficult to record all of the complexities of a particular case in the questionnaire. Further research of a more qualitative nature would be required to overcome this issue.
- Second, only completed cases were included in this research and therefore data relating to cases on-going were not collected or analysed.

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<sup>6</sup> Live files are deemed to be disputes that are still going through the resolution process and have not been issued with a determination order from the PRTB.

- Third, any data not recorded on the files could not be entered into the questionnaire.
- Fourth, while every effort was made to examine every relevant file, this was not always possible as some files were in use during the fieldwork phase. This was inevitable given the large volume of files involved, but was minimised by cross referencing the determination orders issued to ensure that files that may have been not available for data collection during the first fieldwork stage were accounted for subsequently.

## 1.4 OUTLINE OF REPORT

This report is set out in five sections. This first section has provided an overview of the work of the PRTB and of this research. The rest of the report is outlined as follows:

Section Two will establish a profile of the disputes referred to the PRTB by drawing on the files examined during this research and the PRTB administrative database. The primary aim is to outline some key characteristics including level of attendance and legal representation at dispute hearings. The average length of time involved in the various stages of the dispute process is also presented.

Section Three will provide a detailed overview of the main disputes referred by tenants. It will focus on issues such as Deposit Retention, Breach of Landlord Obligations and Illegal Eviction. These disputes were selected as they were the most frequent type of disputes referred by tenants to the Board. In the context of illegal eviction, this refers to cases where the tenant was forcibly evicted from the dwelling for example, changing of locks etc.

Section Four provides details of the main disputes referred by landlords to the PRTB. The disputes profiled include issues relating to Rent Arrears, Anti-Social Behaviour and Breach of Tenant Obligations. Similar to the profiling in section three, these types of disputes were chosen as they were the most frequent to be referred to the Board by the landlord.

Section Five outlines the key findings of the research and issues for consideration by the PRTB.



## SECTION 2

### Profile of Disputes Referred to the Board and Files Examined

This section of the report provides a profile of the disputes referred to the PRTB. The data outlined here is drawn from examination of the PRTB administrative data as well as the files examined during the fieldwork stage of the research. The type and volume of disputes referred to the Board in 2005 and 2006 is outlined. Following on from this, a general overview of the files examined is provided. Information regarding the level of attendance and the level of legal representation is also detailed.

#### 2.1 VOLUME OF CASES 2005 AND 2006

Based on the administrative data held by the PRTB, there were 892<sup>7</sup> disputes referred to the PRTB in 2005. At the time of examination of this database, 334 (37 per cent) of these cases were issued with Determination Orders. A further 115 (13 per cent) of these cases were resolved while a further 147 (16 per cent) cases had been withdrawn. Almost 10 per cent of the cases referred to the Board were rejected due to lack of information or being considered not coming within the Board's jurisdiction. The remaining 25 per cent of the cases were at varying stages of the dispute resolution process. In 2005 there were 37 Tribunals scheduled.

The database also showed that in 2006 there were 1,278 disputes referred to the PRTB. Of this number there were 114 (9 per cent) Determination Orders issued. The majority of the cases referred in 2006 were either waiting to be processed 333 (26 per cent) or they were at various stages of the dispute resolution process 528 (41 per cent). A further 170 (13 per cent) were withdrawn and 133 (10 per cent) were rejected due to a lack of information or being considered outside the Board's jurisdiction. In 2006 the number of Tribunals more than doubled on the 2005 figure (76 Tribunals scheduled).

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<sup>7</sup> Source: PRTB dispute resolution database (unpublished)

This gives a general overview of the volume of cases that the PRTB has received and dealt with, as can be seen, there is a growing number of disputes being referred to the Board as it becomes more established. At the same time, it should be stressed that in both 2005 and 2006 the number of disputes referred to the PRTB equalled to approximately one per cent of all registered tenancies.

The remaining part of this section of the report concentrates on the files examined during the sampling process (with some comparative analysis of the administrative data). The key characteristics of the files will be outlined including the dispute resolution mechanism used, the year of referral, the level of attendance and legal representation. The average length of time between different stages of the process will also be outlined.

## 2.2 OVERVIEW OF FILES EXAMINED

### 2.2.1 OVERVIEW OF DISPUTE RESOLUTION MECHANISM

There were 1187 files examined in-depth for the purpose of this research. These were all files which had reached a conclusion; a determination order was issued or the cases had been withdrawn or deemed withdrawn. As noted above, at the time of data collection there was a large volume of cases on-going or waiting to be processed by the PRTB and therefore outside the scope of this research.

Of the files examined a little over half (621 or 52 per cent) were withdrawn or deemed withdrawn. A case was recorded withdrawn if the applicant had requested it to be withdrawn – this was the case in 362 cases. A file was deemed withdrawn if an adequate amount of time had elapsed between the final communication on the file. In some instances this may have been a request for further information from the PRTB with a deadline for the receipt of this information having past. There were 259 such cases.

The remaining 554 cases had completed a dispute resolution mechanism, as detailed in Table 2.1 below. As the table shows, the majority of the cases (n=445 and n=52, 90 per cent), which had gone through the full dispute resolution process, had chosen adjudication as the preferred dispute resolution mechanism. Almost one in ten cases that started in adjudication went on to a Tribunal. Only 5 per cent of cases chose the mediation route, of which almost two in every ten then went on to a Tribunal. Very few cases went straight to Tribunal (4 per cent).



**Table 2.1** Dispute Resolution Mechanism by Year

YEAR	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
2005	334	20	13	42	6	415
2006	111	8	10	10	0	139
TOTAL	445 (80%)	28 (5%)	23 (4%)	52 (10%)	6 (1%)	554 (100%)

Figure 1.1 in the previous section outlined that parties may appeal the findings of the adjudication or mediation hearing to a Tribunal within 21 days of being notified of the outcome of this stage of the process. The Tribunal members will then hear the case in full and make a decision based on the evidence presented to it and subsequently a determination order is issued by the PRTB. An examination of the cases appealed to Tribunal (n=58) showed that in 20 cases the decision made previously was upheld, and in a further 14 cases it was partially upheld. In 13 cases the original order was overturned and a new determination arrived at – there were 11 case files in which this information could not be recorded by the researchers.

#### 2.2.2 NATURE OF DISPUTES REFERRED TO THE PRTB

Table 2.2 outlines the nature of the disputes referred to the Board during 2005 and 2006. In some instances disputes referred to included more than one issue and therefore these figures exceed the total number of disputes referred in both years.

**Table 2.2** Nature of disputes referred to the PRTB in 2005 and 2006

NATURE OF THE DISPUTE	2005 DATABASE		2006 DATABASE	
	N	%	N	%
DEPOSIT RETENTION	389	42	501	39
RENT ARREARS	175	19	254	20
BREACH OF LANDLORD OBLIGATION (INCLUDING STANDARD OF DWELLING)	109	12	138	11
INVALID NOTICE	54	6	174	14
BREACH OF TENANT OBLIGATION	71	7	37	3
ANTI-SOCIAL BEHAVIOUR (INCLUDING THIRD PARTY COMPLAINTS)	41	4.5	46	4
OVERHOLDING	29	3	50	4
ILLEGAL EVICTION	43	5	26	2
RENT REVIEW	5	0.5	11	1
MISCELLANEOUS	9	1	36	2
<b>TOTAL</b>	<b>925</b>	<b>100%</b>	<b>1273</b>	<b>100%</b>

Source: PRTB database

Deposit retention was the most frequent reason for a dispute between landlord and tenant being referred to the PRTB in both 2005 and 2006. Examining the PRTB disputes database shows that in both of these years approximately two-fifths of the disputes referred to the Board were in relation to this issue<sup>8</sup>. The second most frequent issue referred to the Board was in relation to rent arrears – accounting for about one-fifth of disputes in both years. Breach of landlord obligations and invalid notice were also significant areas of dispute. Complaints in relation to anti-social behaviour, overholding<sup>9</sup> and rent reviews were a lot less common. There was a marked reduction between 2005 and 2006 in the number of cases referred to the PRTB in relation to breach of tenant obligation and illegal eviction<sup>10</sup>.

Table 2.3 outlines the nature of the disputes in the files examined during the course of this research. Again, in some instances more than one dispute was noted in some cases and therefore the total number of disputes noted exceeds the total number of files examined (1187). In common with the database information reported in Table 2.2, above, data from the files examined found deposit retention, rent arrears and breach of landlord obligation as the top three issues emerging. Less frequent issues related to anti-social behaviour, overholding, illegal eviction and rent review disputes.

**Table 2.3** Nature of dispute in files examined

NATURE OF THE DISPUTE	TOTAL FILES EXAMINED		COMPLETED CASES	
	N	%	N	%
DEPOSIT RETENTION	474	34	274	40
RENT ARREARS	241	17	136	20
BREACH OF LANDLORD OBLIGATION (INCLUDING STANDARD OF DWELLING)	151	11	69	10
INVALID NOTICE	139	10	56	8
BREACH OF TENANT OBLIGATION	97	7	49	7
ANTI-SOCIAL BEHAVIOUR (INCLUDING THIRD PARTY COMPLAINTS)	81	6	33	5
OUTSIDE OF PRTB REMIT	58	4	4	1
OVERHOLDING	48	3	23	3
ILLEGAL EVICTION	45	3	26	4
RENT REVIEW	21	2	7	1
MISC.*	38	3	–	–
<b>TOTAL</b>	<b>1393</b>	<b>100%</b>	<b>677</b>	<b>100%</b>

\*The ‘miscellaneous’ category refers to: Repayment of rent (3), awaiting clarification (5) and landlord not registered with the PRTB (30).

Note: Completed files refer to files that have gone through the dispute resolution process.

<sup>8</sup> Due to the significance of this issue for the Board, an international literature review on this topic has been carried out by Candy Murphy & Associates (see <http://www.prtb.ie/downloads.htm>). Following the publication of this report a call for submissions was launched on this issue in order to inform the Board on the best way forward.

<sup>9</sup> “A tenant is overholding where he/she continues to occupy the rented dwelling on a date after the expiry of the notice period specified in a valid Notice of Termination served by the landlord” see [www.prtb.ie](http://www.prtb.ie) for further information.

<sup>10</sup> “An illegal eviction occurs when a landlord forcibly removes a tenant or a tenant’s belongings from a rented dwelling and then denies the tenant access to the dwelling, whether or not a valid Notice of Termination had been served in respect of the tenancy” – see [www.prtb.ie](http://www.prtb.ie) for further information.

Table 2.4 below provides a breakdown of the dispute mechanism used in the various types of dispute referred to the Board. As previously outlined the majority of disputes were dealt with through adjudication (80 per cent). Of the remaining cases – a small proportion of the disputes were resolved by mediation (n=30) – 60 per cent of these cases related to deposit retention. Disputes were brought to Tribunal in 15 per cent of the cases examined in detail (n=104) – most of which (n= 60) went to Tribunal on appeal following adjudication. The most frequent type of dispute to be appealed to Tribunal following adjudication was deposit retention (n=16). A small proportion of disputes were appealed to a Tribunal following mediation (n=8).

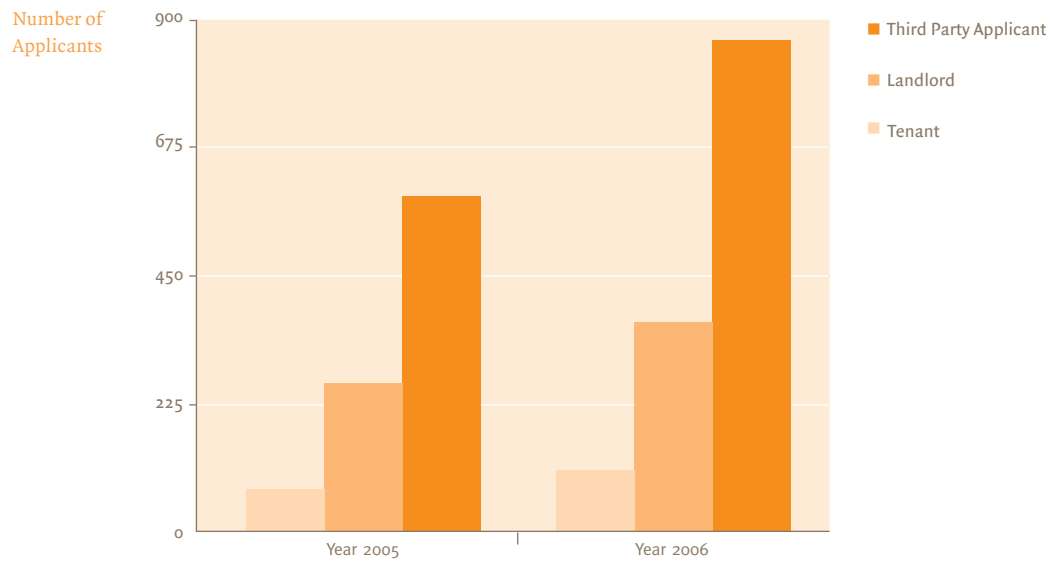
**Table 2.4** Nature of dispute broken down by dispute resolution mechanism

NATURE OF DISPUTE	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
ANTI-SOCIAL BEHAVIOUR	21	2	5	4	1	33
DEPOSIT RETENTION	234	18	1	16	5	274
ILLEGAL EVICTION	11	0	9	6	0	26
INVALID NOTICE	37	3	9	6	1	56
OVERHOLDING	18	0	3	2	0	23
RENT ARREARS	65	3	2	7	0	77
RENT ARREARS/ OVERHOLDING	33	0	0	4	0	37
RENT ARREARS/ BREACH OF TENANT OBLIGATIONS	20	1	0	1	0	22
BREACH OF LANDLORD OBLIGATION	55	3	4	6	1	69
BREACH OF TENANT OBLIGATIONS	41	1	3	4	0	49
RENT REVIEW	6	0	0	1	0	7
OUTSIDE PRTB REMIT	1	0	0	3	0	4
<b>TOTAL</b>	<b>542 (80%)</b>	<b>31 (5%)</b>	<b>36 (5%)</b>	<b>60 (9%)</b>	<b>8 (1%)</b>	<b>677 (100%)</b>

### 2.2.3 APPLICANT PROFILES

Figure 2.1, based on the PRTB administrative database, shows that the majority of applications for dispute resolution came from tenants. This has remained broadly the same over the first two years of the PRTB's full operation of the service. Two-thirds of applicants to the PRTB for dispute resolution were made by tenants while the remaining one-third were mainly from landlords with a small proportion relating to third party complaints. These proportions were also born out in the files examined in detail.

**Figure 2.1** Applicant Profile, 2005-2006



Source: PRTB administrative database

Table 2.5 outlines the nature of the disputes referred to the PRTB for which determination orders were issued (554 in total – see Table 2.1) broken down by the type of applicant – tenant, landlord or third party. Deposit Retention was by far the most prominent issue raised by tenants with 262 cases (that is almost half of all determination orders issued) including a complaint of this nature. This was followed by breach of landlord obligations (n=61) and invalid notice of termination (n=42). For landlords the main dispute issues were rent arrears (n=60) or rent arrears and overholding (n=34). Breach of tenant obligations was also frequently referred (n=35). Third party applicants can only refer disputes relating to anti-social behaviour (n=14), which is technically referred to as a breach of landlord obligations (n=1).

**Table 2.5** Nature of Dispute by Applicant Type (cases for which determination order issued in 2005 – 2006)

NATURE OF THE DISPUTE	LANDLORD APPLICANT	TENANT APPLICANT	THIRD PARTY APPLICANT	TOTAL
ANTI-SOCIAL BEHAVIOUR	13	7	14	34
DEPOSIT RETENTION	11	262	–	273
ILLEGAL EVICTION	1	24	–	25
INVALID NOTICE	12	42	–	54
OVERHOLDING	21	2	–	23
RENT ARREARS	60	17	–	77
RENT ARREARS / OVERHOLDING	34	3	–	37
RENT ARREARS / BREACH OF TENANT OBLIGATIONS	20	2	–	22
BREACH OF LANDLORD OBLIGATIONS	6	61	1	68
BREACH OF TENANT OBLIGATIONS	35	13	1	49
RENT REVIEW	2	5	–	7
OUTSIDE PRTB REMIT	1	1	–	2
REPAYMENT OF RENT	–	3	–	3
<b>TOTAL</b>	<b>214 (32%)</b>	<b>442 (66%)</b>	<b>16 (2%)</b>	<b>672 (100%)</b>

Note: total figures add to more than total number of determination orders issued (554) as applicants could refer multiple disputes to the PRTB in one application.

Landlords who refer disputes to the PRTB must have their tenancy registered in order to avail of the PRTB's dispute resolution service<sup>11</sup>. Tenants on the other hand may refer a case and avail of dispute resolution regardless of whether the tenancy is registered or not. Table 2.6 shows that, according to the PRTB administrative database, in 2006 well over half of disputes came from unregistered tenancies – 60 per cent (n=742) of the disputes referred to the PRTB related to unregistered tenancies. Of this number 84 per cent (n=628) were from disputes referred by the tenant with the remaining 16 per cent being from landlords (n=65) and third party complaints (n=49). For 2005, the administrative database did not capture the registration of the tenancies as accurately as 2006 with almost 40 per cent of the data missing and is therefore not presented here. While it is difficult to be sure as to why data is missing, in this case it may be due to the fact that this was the Board's first full year of operation and many tenancies had not yet been registered.

**Table 2.6** Applicant details and tenancy registration details 2006

APPLICANT	TENANCY REGISTERED	TENANCY UNREGISTERED	TOTAL
LANDLORD	281	65	346
TENANT	203	628	831
THIRD PARTY	16	49	65
<b>TOTAL</b>	<b>500 (40%)</b>	<b>742 (60%)</b>	<b>1242 (100%)</b>

Source: PRTB administrative database  
Missing = 31

<sup>11</sup> Part 6 of the Residential Tenancies Act 2004

Table 2.7 provides a further breakdown of this data to show the type of dispute referred to the PRTB by whether the tenancy was registered or not. It shows that the most frequently referred dispute in relation to unregistered tenancies related to deposit retention at 52 per cent, however, for registered tenancies this fell to 22 per cent. In the region of three-quarters (77 per cent) of disputes relating to deposit retention were related to unregistered tenancies. Cases relating to rent arrears were less likely to be referred to the Board for tenancies that were unregistered (2 per cent of cases versus 16 per cent of cases where the tenancy was registered). Similar figures are outlined in cases categorised as rent arrears/breach of tenant obligations (13 per cent registered and 2 per cent unregistered) and for cases categorised as rent arrears/overholding (12 per cent for registered and 2 per cent for unregistered). Almost all cases referred to the PRTB in relation to illegal eviction (23 out of 26 or 88 per cent) were from unregistered tenancies.

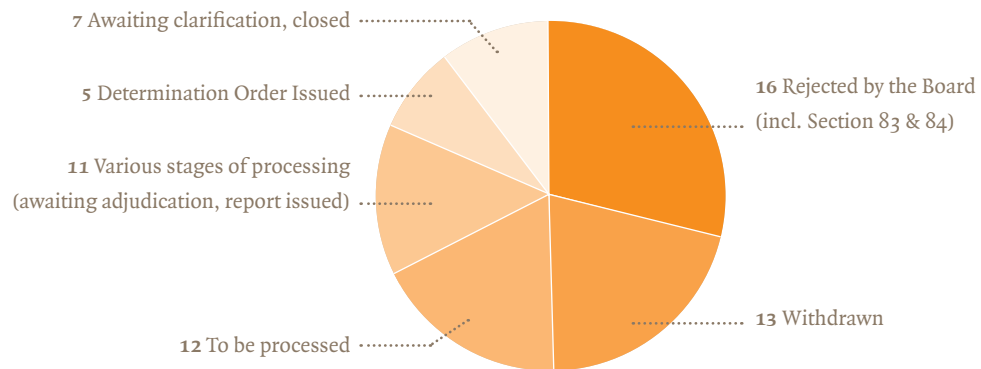
**Table 2.7** Dispute Type for Registered and Unregistered Tenancies 2006

NATURE OF THE DISPUTE	REGISTERED		UNREGISTERED	
	N	%	N	%
DEPOSIT RETENTION	108	22	380	52
RENT ARREARS	77	16	14	2
RENT ARREARS / BREACH OF TENANT OBLIGATIONS	64	13	17	2
RENT ARREARS / OVERHOLDING	57	12	15	2
INVALID NOTICE	55	11	115	16
OVERHOLDING	36	7	14	2
BREACH OF LANDLORD OBLIGATIONS	31	6	75	10
BREACH OF TENANT OBLIGATIONS	27	6	9	1
AWAITING CLARIFICATION	11	2	19	3
MAINTENANCE OF DWELLING	8	2	12	2
3RD PARTY COMPLAINTS	6	1	30	4
RENT REVIEW	4	1	6	1
ILLEGAL EVICTION	3	1	23	3
ANTI-SOCIAL BEHAVIOUR	2	0	6	1
<b>TOTAL</b>	<b>489</b>	<b>100</b>	<b>735</b>	<b>100</b>
MISSING	11	—	7	—

Two points should be borne in mind when considering these figures. First, where a tenancy is not registered the landlord cannot refer a dispute to the Board for resolution. Cases relating to rent arrears, overholding and breach of tenant obligations are generally referred by landlords and thus may explain the lower level of referred cases in unregistered tenancies. Second, tenancy registration levels have increased since this data was collected. At the end of 2006 (31st December) the number of registered tenancies stood at 133,283. This was after the PRTB had been in operation for 16 months. The number of registered tenancies substantially increased to 202,078 by the year-end, 2007 and stood at 240,951 by end October 2008.

Figure 2.2 shows a breakdown of the status of the cases which were referred by the landlord but where the tenancy was not registered. In one-quarter of the cases the Board rejected or refused to hear the dispute (n=16). There were 13 cases in this category, which were withdrawn with an additional 12 waiting to be processed. A further 11 cases were at various stages of processing with 5 cases having determination orders issued. The remaining 7 cases were awaiting clarification. The issues in this category were related mainly to rent arrears or overholding. For example, 60 per cent of the cases (n=39) were categorised as rent arrears or rent arrears/breach of tenant obligations or rent arrears/overholding. With a further 21 per cent (n=14) categorised as overholding.

**Figure 2.2** Status of cases referred by the landlord where the tenancy was registered in 2006 (number)



N=64 Missing = 1



## 2.2.4 GEOGRAPHIC BREAKDOWN

Disputes are categorised by two geographic areas: Dublin and the rest of the country. Generally a marginal majority of the disputes come from the Dublin area with 55 per cent and 56 per cent in 2005 and 2006 respectively.

## 2.3 LEVEL OF ATTENDANCE

Each party of the dispute is invited to the adjudication or Tribunal hearing however it is not essential that they attend. Table 2.8 shows the level of attendance for both the tenant and landlord for the detailed files examined. It shows that both parties attended the dispute resolution hearing in the majority of cases. In a small number of cases the tenant or landlord was represented by someone else such as an agent or relative.

**Table 2.8** Level of attendance for both parties at dispute hearings

ATTENDANCE	TENANT		LANDLORD	
	N	%	N	%
YES	397	72	395	71
NO	130	23	92	17
REPRESENTED BY RELATIVE	6	1	12	2
REPRESENTED BY AN OTHER	9	2	46	8
NOT RECORDED	12	2	9	2
	554	100	554	100

Table 2.9 shows that generally both parties were likely to attend the dispute resolution. One exception to this rule was when the landlord was the applicant the tenant was less likely to attend the dispute hearing and did so in only about half (48 per cent) of cases. The non-attendance of the tenant at hearings relating to cases brought by landlords was most common in disputes relating to rent arrears and overholding or breach of tenant obligations (not shown in the table). In cases referred by a tenant, landlords were more likely to attend the hearing in general. Where landlords did not attend the hearing relating to cases brought by tenants, these cases were mainly concerned with disputes relating to deposit retention and, less frequently, breach of landlord obligations (data also not shown in the table).

**Table 2.9** Level of attendance by applicant

APPLICANT	LANDLORD LEVEL OF ATTENDANCE	TENANT LEVEL OF ATTENDANCE
LANDLORD	89%	48%
TENANT	76%	84%

The level of attendance for tenants and landlords can also be broken down by dispute mechanism type. Table 2.10 outlines the frequency of attendance for tenants and landlords and shows high levels of attendance by both parties, but a tendency for attendance to fall off for landlords if cases go to Tribunal following adjudication or mediation.

**Table 2.10** Breakdown of attendance by dispute resolution mechanism

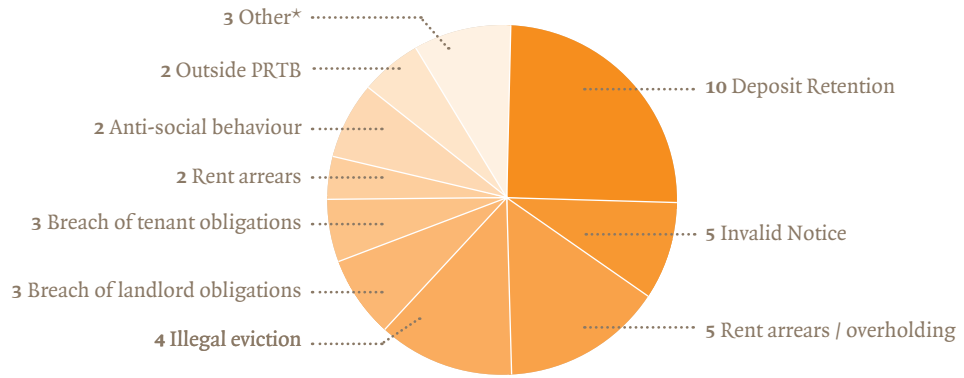
	TENANT ATTENDANCE LEVELS			LANDLORD ATTENDANCE LEVELS		
	In person %	Represented by other %	Non attendance %	In person %	Represented by other %	Non attendance %
ADJUDICATION	71	1	27	73	10	17
STRAIGHT TO TRIBUNAL	72	1	18	86	5	9
TRIBUNAL FOLLOWING ADJUDICATION	82	<1	14	63	16	21
TRIBUNAL FOLLOWING MEDIATION	80	20	–	50	32	16
MEDIATION	93	–	7	85	7.5	7.5

The dispute resolution process carried out by the PRTB replaces the previous court based system. A primary feature of this system is that it should be informal and not require parties to engage with legal representation. In looking at the frequency of legal representation at dispute resolution hearings, landlords were three times more likely to have legal representation than tenants. Overall the frequency of having legal representation was quite low.

Tenants and landlords had legal representation in 5 per cent (n=31) and 15 per cent (n=87) of dispute hearings respectively<sup>12</sup>. The type of cases where tenants and landlords had legal representation are outlined in the two figures below. As Figure 2.3 shows, the most frequent type of dispute where tenants had legal representation was deposit retention in a quarter of cases (n=10). This was followed by invalid notice (n=5) and rent arrears / overholding (n=5). Figure 2.4 shows that for landlords they were more likely to have legal representation at disputes relating to breach of landlord obligations (n=22), invalid notice (n=18) and deposit retention (n=15). Landlords also frequently had legal representation in cases relating to rent arrears (n=12) and rent arrears / overholding (n=12).

<sup>12</sup> In both instances parties generally engaged the services of solicitors.

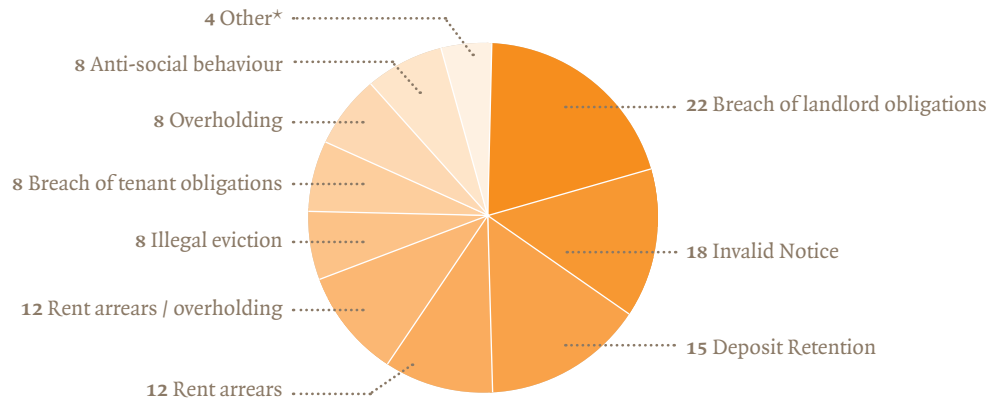
**Figure 2.3** Type of dispute where tenants had legal representation (number)



N=39

\*Other refers to overholding (n=1), repayment of rent (n=1) and rent arrears and breach of tenant obligations (n=1). In some instances there was more than one type of dispute referred to.

**Figure 2.4** Type of dispute where landlords had legal representation (number)



\*Other refers to rent arrears / breach of tenant obligations (n=1), rent review (n=1) and outside of PRTB remit (n=2). In some instances there was more than one type of dispute referred to.

## 2.4 TIMEFRAMES

This section of the report will outline the average number of days between the different stages of the dispute resolution process. This is done by documenting key dates at various stages of the dispute resolution process. The following dates were documented during the research process:

- Date of application
- Date of adjudication / mediation hearing
- Date of the issuing of the report from the adjudicator to the parties
- Date of the appeal
- Date of the sitting of the Tribunal
- Date of the issuing of the Determination Order by the Board

The average dates are divided up by dispute resolution mechanism.

### 2.4.1 ADJUDICATION

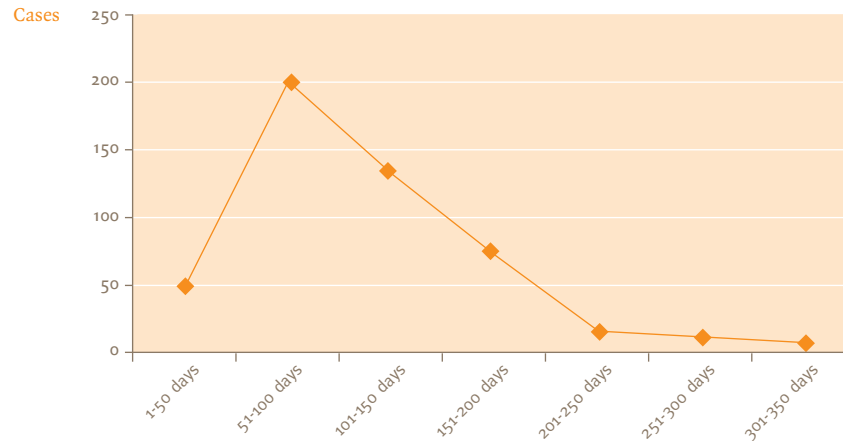
The average time between the date of the application to the PRTB and the adjudication hearing was 152 days. This equates to 110 working days or 22 weeks. In cases such as this the mean figure can be affected by outliers or extremes in the data. To account for this the median or mid-point of the data range is used. Using this measure, cases were at adjudication hearing stage within 136 days or 92 working days of application to the PRTB.

The average time between the adjudication and the issuing of the report to both parties was 60 days. This equates to 42 working days. The significant delay in sending out the report can be attributed to a number of factors. Firstly, there may be a delay in submitting the reports to the board on the adjudicators' side. Secondly, the reports are scrutinised by staff members of the PRTB and may need to be re-issued to the adjudicator for clarification of points etc.

Once the report is issued to the parties, they have 21 days to appeal the adjudicator's decision. If an appeal is not received by the PRTB, the decision is made into a determination order by the Board and issued to the parties. On average this part of the process takes 76 days or the equivalent of 56 working days (11 weeks).

The average time it takes to process a claim through dispute resolution process, without going to Tribunal, is 273 days or 195 working days (39 weeks).

**Figure 2.5** Number of working days between application and adjudication



Note: N = 481.  
To take account of invalid data, cases over 500 days were not included in this graph.

#### 2.4.2 DISPUTES PROCESSED THROUGH TRIBUNALS

A number of time frames were determined in relation to cases that went straight to Tribunal. Disputes which were referred straight to Tribunal took on average 83 days or 60 working days (12 weeks) to process between the application date and the date of the Tribunal (n=21; missing=2). In the case of disputes that went through the first stage of dispute resolution (adjudication or mediation) and were then appealed to Tribunal, the average time of processing was 304 days or 217 working days (43 weeks) (n=47, missing=11).

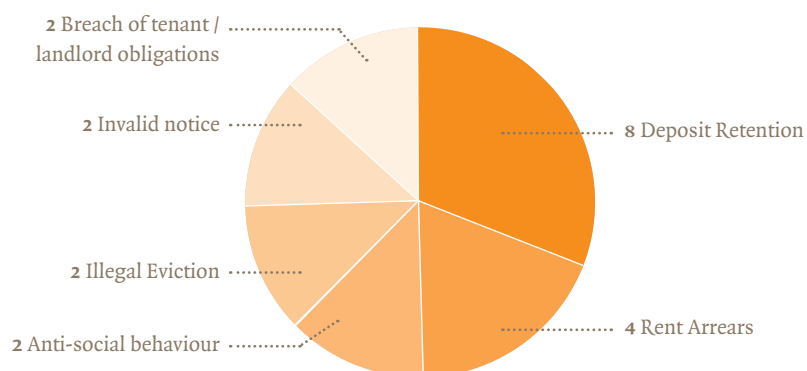
Following the Tribunal, the Board issued Determination Orders in an average of 31 days or 22 working days.

## 2.5 COSTS AND DAMAGES

### 2.5.1 COSTS

The PRTB may award costs and damages to either party where it deems it appropriate (Section 5(3) of the Residential Tenancies Act 2004). Costs were awarded in 17 cases. The average amount of costs awarded was €704 with 50 per cent of the cases having costs of €325 or less awarded. Costs were mainly awarded to the tenant (n=10) with the PRTB and the landlord awarded costs in 4 and 3 cases respectively.

In the 17 cases where costs were awarded, 11 of these cases were heard at adjudication. The remaining 6 cases were heard at a Tribunal (2 of these cases were sent straight to Tribunal). The type of disputes where costs were awarded are outlined in Figure 2.5. The most frequent types of dispute where costs were awarded were deposit retention (n=8) and rent arrears (n=4). Other issues include anti-social behaviour, illegal eviction, invalid notice, breach of tenant obligations and breach of landlord obligations.

**Figure 2.6** Awarding of costs by nature of dispute (number)

Note: Some cases involved more than one issue therefore n > 17.

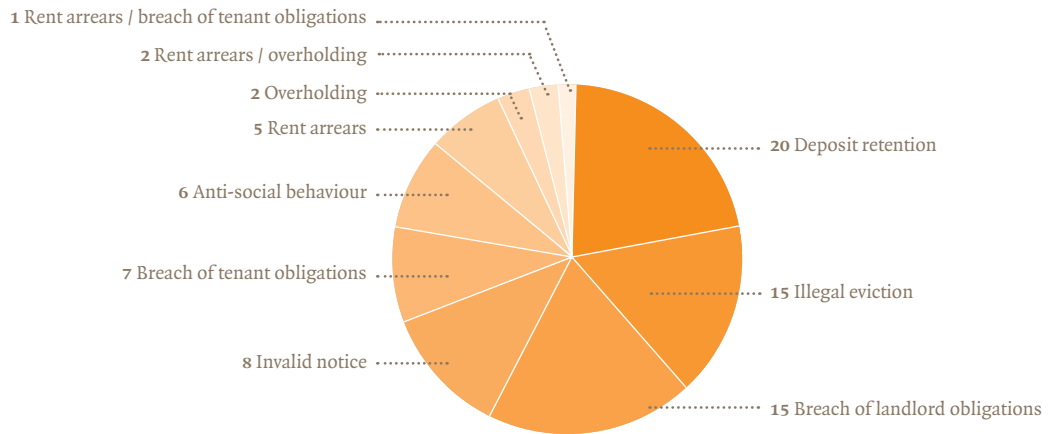
#### 2.5.2 DAMAGES

Damages were awarded in 63 of the cases examined. In most of the cases the damages were awarded to the tenant (84 per cent, or 52 cases). In the remaining 10 cases damages were awarded to the landlord. The average damages awarded was just over €1,300 with 50 per cent of the cases receiving €800 or less.

In the 63 cases in which damages were awarded 41 of these cases were heard at adjudications with the remaining 22 awarded by Tribunals (12 of these were cases sent straight to Tribunal).

The nature of disputes where damages were awarded are outlined in Figure 2.7 below. The issue of deposit retention was the most frequent dispute category where damages were awarded at 25 per cent (n=20) with illegal eviction and breach of landlord obligations both (n=15) the next most frequent dispute categories. Other disputes in which damages were awarded were invalid notice (n=8) breach of tenant obligations (n=7), anti-social behaviour (n=6), rent arrears (n=5), overholding (n=2), rent arrears / overholding (n=2) and rent arrears and breach of tenant obligations (n=1).

**Figure 2.7** Awarding of damages by nature of dispute (number)



Note: Some cases involved more than one issue therefore n > 63.

## 2.6 CONCLUDING COMMENTS

This section has provided a detailed overview of disputes referred to the PRTB for resolution. Primarily it has given details of the type of disputes referred and who referred the disputes, along with details of the geographic breakdown of the disputes. The level of attendance and the level of legal representation at dispute hearings were also outlined. The time frames at various stages of the dispute were also provided, along with a detailed breakdown of the awarding of costs and damages. The next section of the report provides details of disputes referred by tenants.





## SECTION 3

### Disputes Referred by Tenants

As noted in the previous section, the majority of applications for dispute resolution came from tenants – the focus of this section. Three areas of dispute are examined:

- deposit retention
- breaches of landlord obligations – given the high volume of these cases
- illegal evictions – given the very serious nature of these disputes

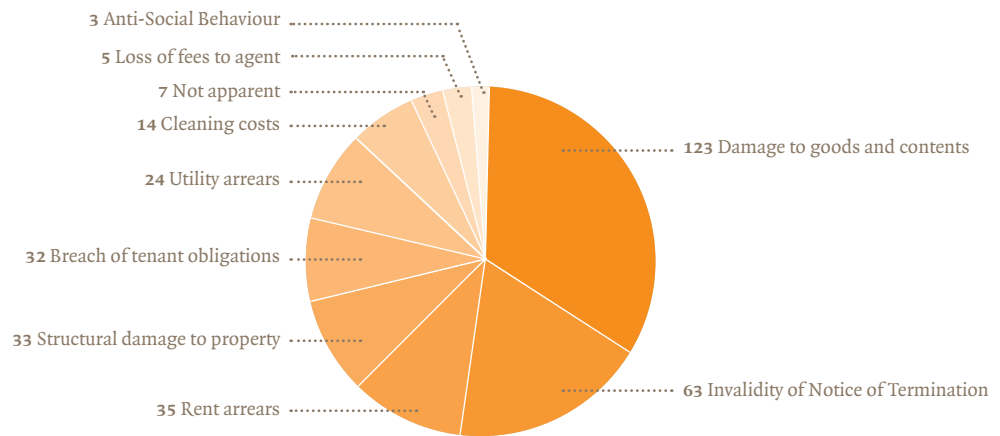
#### 3.1 DEPOSIT RETENTION

The issue of deposit retention is a key concern for the PRTB with a large proportion of disputes (see section 2) in relation to this issue being referred for dispute resolution. This section takes an in-depth look at this issue by analysing 274 relevant case files, together with the determination orders issued in 2005 and 2006. As Table 2.4 above outlined, in the files examined in detail as part of this research there were 234 cases of deposit retention dealt with at adjudication with a further 18 dealt with at mediation. A total of 22 cases relating to deposit retention were heard at Tribunals, 16 of these were appealed following adjudication and an additional 5 were appealed following mediation.

### 3.1.1 REASONS FOR RETENTION OF DEPOSIT

The central cause of this type of dispute is the claim that the landlord has withheld part of or the full amount of the deposit paid by the tenant when the tenancy was entered into. Figure 3.1 lists the main reasons given by the landlord (as reported in the files) for the retention of the deposit. In a little over a third of cases (n=123) the landlord claimed it was due to alleged damage to goods and contents. Alleged invalid notice of termination was also a common reason for the landlord seeking to retain the deposit (n=63). The remaining reasons for the retention of the deposit included rent arrears (n=35), structural damage to property (n=33) and breaches of tenant obligations (n=32). Utility arrears and cleaning costs were also noted as issues for retaining the deposit at n=24 and n=14 respectively. The final issues related to loss of fees to agent (n=5) and anti-social behaviour (n=3). In seven cases it was not apparent from the files why the deposit was retained.

**Figure 3.1** Reasons given by landlord for retention of deposit (number)



Note: Total adds to more than 274 as in some cases multiple reasons were recorded.

### 3.1.2 RANGE OF MONETARY VALUE OF DEPOSITS RETAINED

An examination of determination orders issued in relation to deposit retention showed that approximately €890 was the average monetary value of the deposit or part thereof retained. It must be noted that this refers solely to the amount in dispute i.e. the amount retained justly or un-justly by the landlord. Half of deposits (or part thereof) retained were for €700 or less (i.e. the median). The range of deposits was quite broad with the lowest deposit or part thereof retained amounting to €49 and the highest amount being €10,155. The top ten percent of the deposit values started at €1,330.

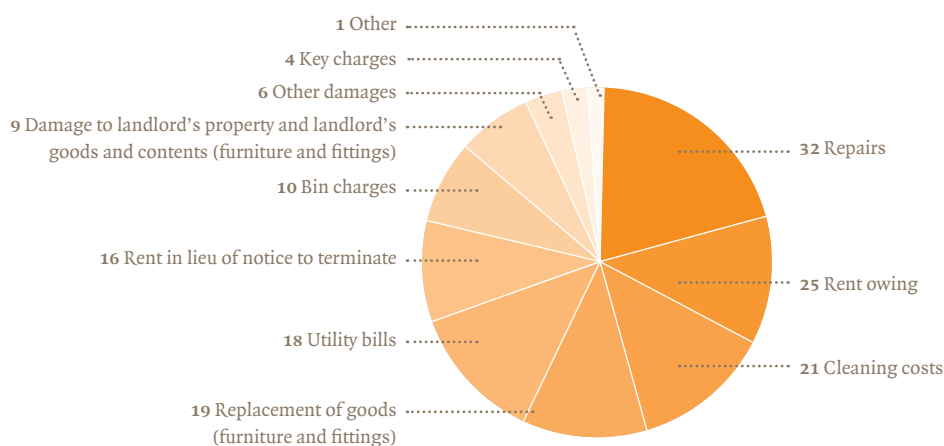
## 3.1.3 OUTCOME OF DEPOSIT RETENTION CASES

When examining the deposit retention determination orders issued in 2005 and 2006 (n=216), it was found that in 40 per cent (n=87) of the cases the decision reached was that there should be no deductions applied to the deposit. In the remaining 60 per cent (n=129) of the cases it was found that there were grounds for the landlord to claim part of the deposit. In about one-third of cases, (n=46, 35 per cent) the amount allowed to be deducted exceeded the amount originally retained by the landlord. In another third of cases (n=42, 32 per cent) the amount allowed to be deducted was over half of what had been retained by the landlord and in the final third (n=41, 32 per cent) of cases less than half the amount could be retained by the landlord.

Figure 3.2 examines more closely the reasons why deductions to deposits were allowed by the PRTB. The figures in this table are based on the information contained in the determination order files and therefore give the reasons why deductions were made to deposits based on the facts of the case. In other words, the deductions outlined here represent the decisions reached by adjudicators / tribunal members determining why deductions should be made based on the evidence presented to them.

The majority of deductions were based on issues relating to the condition that the property was left in i.e. repairs (n=32), cleaning costs (n=21), replacement of furniture and fittings (n=19) and damage to landlord's property and contents (n=9). The non-payment of bills on vacating the property was also an issue with utility bills (n=18) and bin charges (n=10) noted as deductions in the determination orders. The issue of rent in terms of arrears (n=25) and rent in lieu of notice of termination (n=16) was also a factor.

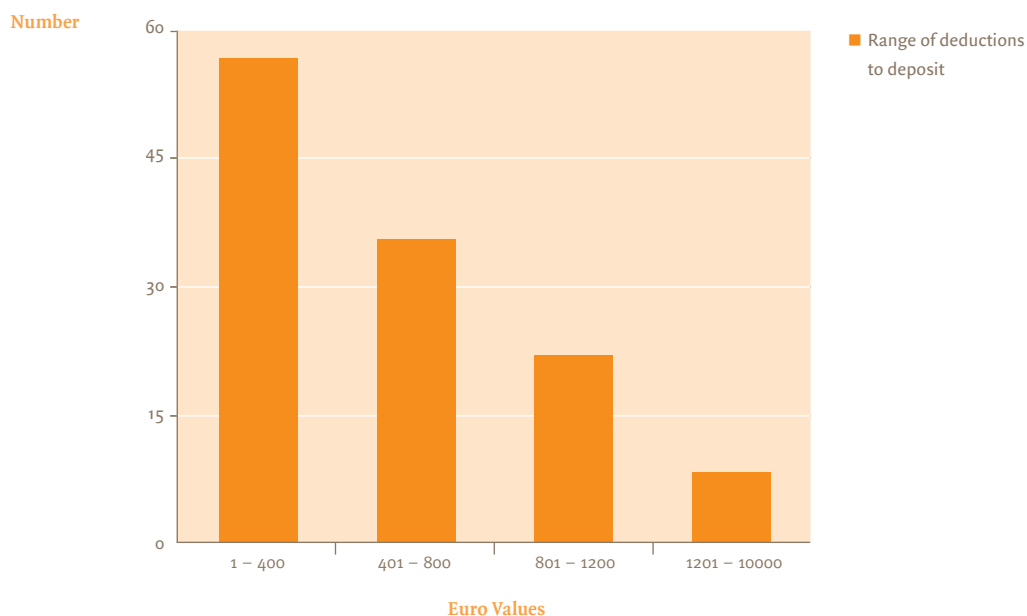
**Figure 3.2** Reasons given by PRTB for deductions to deposit (number)



Note: In some instances more than one deduction was applied to the deposit.

The average amount of deductions made was €640, with 50 per cent of the cases having deductions of €460 or less. The spread of deductions made to the deposit is outlined in Figure 3.3 below.

**Figure 3.3** Spread of deduction made to deposits



The graph illustrates that the majority of deductions from the deposit were for less than €400, with 10 per cent of deductions over €1,200.

#### 3.1.4 EVIDENCE PRESENTED TO THE BOARD IN RELATION TO THE DISPUTE

There was a wide variety of evidence submitted at the adjudication and tribunal hearings in deposit retention cases. The type of evidence presented by the tenant is outlined in Table 3.1 and by the landlord in Table 3.2. As would be expected, more than one piece of evidence was submitted; therefore the frequency is outlined rather than the percentage.

As Table 3.1 shows, most frequently, the tenant presented his/her own evidence (n=48) (written or oral evidence). Following on from this, the tenant submitted receipts (n=43), with photographic evidence also frequently submitted (n=27). Third party evidence (n=8) and rent books (n=7) were also submitted.

**Table 3.1** Evidence presented by the tenant (number)

TYPE OF EVIDENCE	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
WRITTEN AND ORAL EVIDENCE OF TENANT	40	–	2	4	2	48
RECEIPTS	41	–	–	1	1	43
PHOTOGRAPHIC EVIDENCE	21	2	–	3	1	27
THIRD PARTY EVIDENCE	–	–	–	1	–	1
RENT BOOK	7	–	–	–	–	7

Note: more than one type of evidence could be submitted.

Table 3.2 shows that landlords relied strongly on receipts from expenses incurred at the end of the tenancy (n=84) and additional evidence from the landlord (such as oral testimony) (n= 64). Photographic evidence was also frequently produced by the landlord (n=39). Third party evidence was also relied upon (n=19) and in some instances the tenant admitted that the deposit should be retained (n=21). Further analysis of the 'other' category showed that the landlord sometimes submitted bank documents and inventories for the accommodation.

**Table 3.2** Evidence presented by the landlord (number)

TYPE OF EVIDENCE	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
RECEIPTS FROM EXPENSES INCURRED	70	3	–	7	4	84
EVIDENCE OF LANDLORD	56	3	–	4	1	64
ADMITTANCE BY TENANT ORALLY OR IN WRITING	18	2	–	–	1	21
PHOTOGRAPHIC EVIDENCE	34	1	–	2	2	39
THIRD PARTY EVIDENCE	17	1	–	1	–	19

Note: more than one type of evidence could be submitted.

### 3.2 BREACH OF LANDLORD OBLIGATIONS

Breach of landlord obligations was another significant issue referred to the Board by tenants. The Residential Tenancies Act, 2004 sets down the following as obligations for landlords:

- allow the tenant to enjoy peaceful and exclusive occupation of the dwelling
- carry out repairs, subject to tenant liability for damages beyond normal wear and tear
- insure the dwelling, subject to the insurance being available at a reasonable cost
- promptly refund deposits unless rent is owing or there is damage beyond normal wear and tear
- provide a point of contact
- reimburse tenants for expenditure on repairs that were appropriate to the landlord

- enforce tenant obligations
- not penalise tenants for making complaints or taking action to enforce their rights
- register the tenancy with the PRTB
- provide a rent book
- provide 28 days notice of a rent review
- give tenants a written notice of termination of tenancy
- give tenants notice of any impending inspections of the property

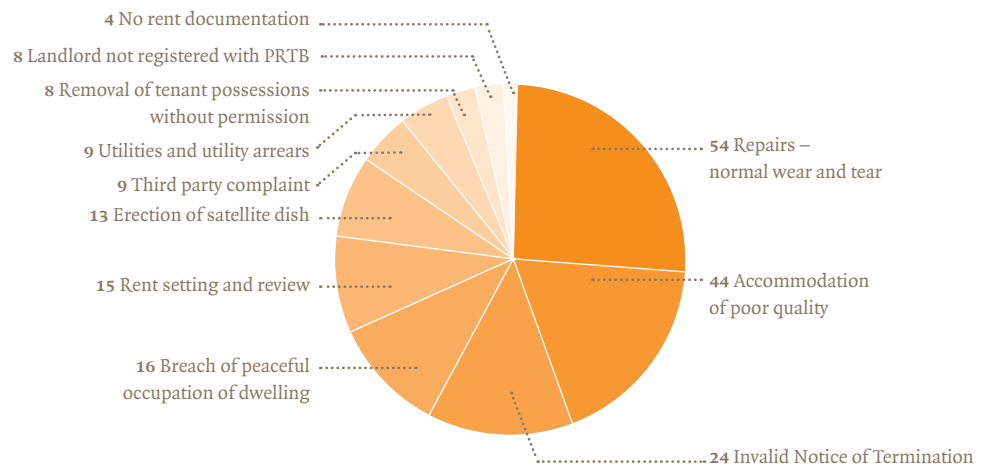
As detailed in Table 2.4 above, there were 69 cases involving breach of landlord obligation disputes analysed as part of the research. Of these the majority (55) were fully dealt with through adjudication, with a further 11 heard by Tribunals (4 of which went straight to Tribunal) and 3 cases were resolved through mediation.

### 3.2.1 ISSUES REFERRED TO THE BOARD IN RELATION TO ALLEGED BREACH OF LANDLORD OBLIGATIONS

Figure 3.4 below shows details of the alleged breaches of landlord obligations referred to the Board in the files examined. Complaints in relation to the standard of the dwelling were the main dispute area. Repairs to be undertaken in accordance with wear and tear (n=54) and accommodation of poor quality (n=44) were the two most frequently referred issues. Other issues referred related to invalid notice of termination (n=24), breach of peaceful occupation of the dwelling (n=16) and failure to comply with the statutory provisions governing rent setting and rent review (n=15).

The issue of satellite dishes being erected without permission was also a common feature (n=13) however in a number of these cases this issue related to one particular apartment complex. The applicant in these cases was often a third party applicant, for example a management company. Less frequently issues relating to third party complaints (n=9), issues relating to utility services (n=9), the removal of tenant's possessions without permission (n=8), landlord not being registered with the PRTB (n=8) and no documentation relating to rent (n=4) were also referred to the Board.

**Figure 3.4** Issues referred to Board in relation to alleged breach of landlord obligations (number)



Note: In some instances the dispute referred to more than one alleged breach of obligation therefore the cases exceed the number of disputes categorised under this heading.

### 3.2.2 EVIDENCE PRESENTED

The range of evidence presented in these cases is outlined in Table 3.3 overleaf. As with other types of cases, the main types of evidence presented included written and oral statements by the tenant, third party written statements, photographs. The range of evidence presented in these cases is outlined in Table 3.3 below. Similar types of evidence were presented in these cases as previous issues examined in this report. The most frequent type of evidence presented was a statement by the tenant (n=23) of other written documentation (n=27). Photographs were also presented in a number of cases (n=20). Less frequent evidence submitted at dispute hearings related to statements from third parties (n=7) and witnesses (n=6). Utility arrears evidence was presented in 4 cases and in 7 cases it was recorded that no evidence was submitted. Other types of evidence included local authority environmental health report (n=2), lease (n=4), receipts (n=4), statement by the landlord (n=1) and the notice of termination to quit (n=1).

**Table 3.3** Evidence presented in cases referred to the Board in relation to alleged breach of landlord obligations (number)

EVIDENCE	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
UTILITY ARREARS	4	–	–	–	–	4
PHOTOGRAPHS	15	1	2	2	–	20
WITNESS STATEMENT	5	–	1	–	–	6
THIRD PARTY STATEMENT	4	–	2	1	–	7
STATEMENT BY TENANT	16	1	3	3	–	23
OTHER WRITTEN DOCUMENTATION	20	2	2	3	–	27
NO EVIDENCE	7	–	–	–	–	7

Note: more than one type of evidence could be submitted.

**Table 3.4** Type of evidence / outcome of dispute (number)

	LANDLORD FOUND IN BREACH OF OBLIGATIONS	LANDLORD FOUND NOT TO BE IN BREACH OF OBLIGATIONS
DOCUMENTATION IN RELATION TO UTILITY ARREARS	3	1
PHOTOGRAPHS	15	2
THIRD PARTY STATEMENTS	4	1
STATEMENT BY THE TENANT	13	4
OTHER WRITTEN DOCUMENTATION	15	7
NO EVIDENCE	1	6
WITNESSES	2	1
TOTAL	53	22

Note: more than one type of evidence could be submitted.

### 3.2.3 OUTCOME

Of the 68 cases involving alleged breach of landlord obligations, in half of these cases (n=34) the PRTB found against the landlord. In 29 per cent of the cases (n=22) the landlord was found not to be in breach of their obligations. In a small number of cases, the parties reached agreement (n=4) or the allegation was only partially up-held by the PRTB. In five cases the files were unclear as to the final decision reached.



**Table 3.5** Type of breach of landlord obligations / outcome of dispute (number)

	LANDLORD FOUND IN BREACH OF OBLIGATIONS	LANDLORD FOUND NOT TO BE IN BREACH OF OBLIGATIONS
RENT SET ABOVE THE MARKET RENT	1	2
REPAIRS TO BE UNDERTAKEN IN ACCORDANCE TO NORMAL WEAR AND TEAR	10	5
THIRD PARTY COMPLAINT RE: TENANT	2	–
LANDLORD NOT REGISTERED WITH PRTB	3	–
RETENTION OF DEPOSIT	3	–
INVALID NOTICE TO QUIT	5	2
ACCOMMODATION OF POOR QUALITY	10	8
<b>TOTAL</b>	<b>34</b>	<b>17</b>

### 3.3 ILLEGAL EVICTION

An illegal eviction refers to an instance whereby the landlord of a tenancy forcibly removed the tenant or their property from the dwelling and denies further access to the tenant to the dwelling. In some instances files categorised as illegal evictions could be interpreted as being relating to invalid notice of termination. The Determination Orders relating to 16 such cases were examined as part of this research, of which approximately 80 per cent (n=13) were determined to have been illegal evictions. In these cases, significant awards of damages or compensation were made – on average nearly €5,900.

### 3.4 CONCLUDING COMMENTS

This section of the report has provided an overview of the most significant disputes referred by tenants to the PRTB. In particular, a detailed examination of the issue of deposit retention was provided. Details of disputes in relation to breach of landlord obligations and illegal evictions were also outlined.

The next section of the report looks at the main disputes referred by landlords and third party applicants.



## SECTION 4

### Disputes Referred by Landlords and Third Party Applicants

As reported in Section 2 above, about one-third of applicants to the PRTB for dispute resolution were made by landlords and third parties (most of which came from landlords). This section examines in more detail three dispute areas of particular interest to landlords and third parties, namely:

- rent arrears
- anti-social behaviour
- breach of tenant obligations

#### 4.1 RENT ARREARS

Analysis of the PRTB database found that about one-fifth of disputes referred to the PRTB in both 2005 and 2006 related to disputes regarding rent arrears (see Section 2 above). Rent arrears can be a contentious issue and examination of these files was difficult in that the information on record often lacked substantiation – for example rent payments records were often incomplete. For this reason, the range of rent arrears was calculated using data from the Determination Orders files. Calculating the period of time during which the tenant was over-holding (i.e not vacating a premises following a valid notice to terminate) was also difficult for similar reasons and also due to the fact that in some instances the tenant could continue to over-hold even after the Determination Order was issued.

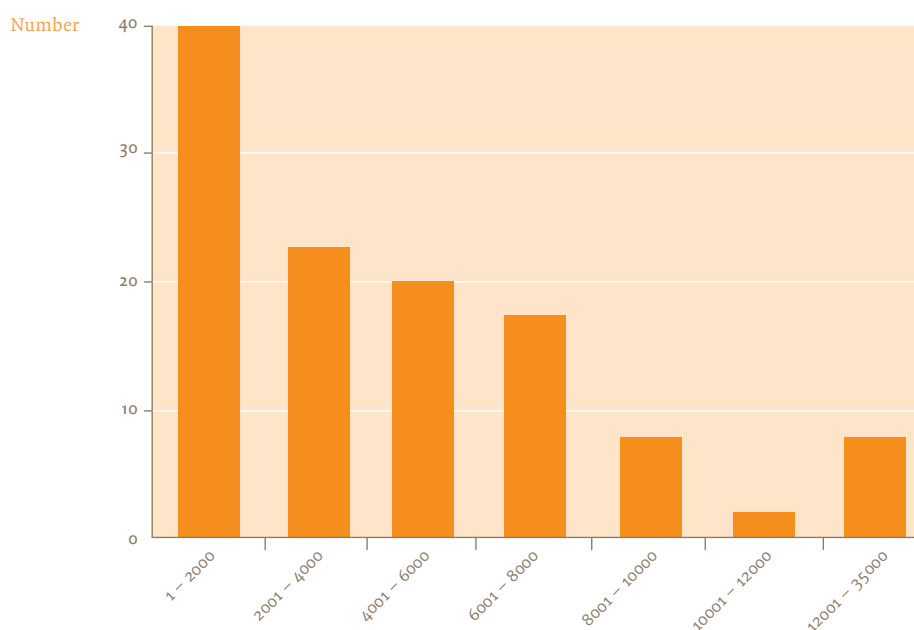
According to Table 2.4, the majority of the cases in relation to rent arrears<sup>13</sup> in the completed files were dealt with at adjudication (n=118) with only 14 cases heard by Tribunal (12 of which were appealed to Tribunal following adjudication). There were 4 cases in relation to this issue in which mediation was deployed.

#### 4.1.1 AVERAGE AND RANGE OF RENT ARREARS

There were 130 cases examined as part of this research where Determination Orders were issued finding rent arrears. The average amount of rent arrears according to these Determination Orders was €4,480 (n=130). Half (the median) of the cases had rent arrears of €2,913 or less. The highest figure for rent arrears was for €31,550 with the lowest figure being €84.

Figure 4.1 below presents the spread of rent arrears and shows that almost half of the arrears cases examined recorded were under €4,000, with the most frequent category of arrears being under €2,000. Substantial arrears were also recorded but were not common – for example ten cases of rent arrears amounting to over €10,000 each were recorded.

**Figure 4.1** Range of Rent Arrears, as recorded in the Determination Orders (number)

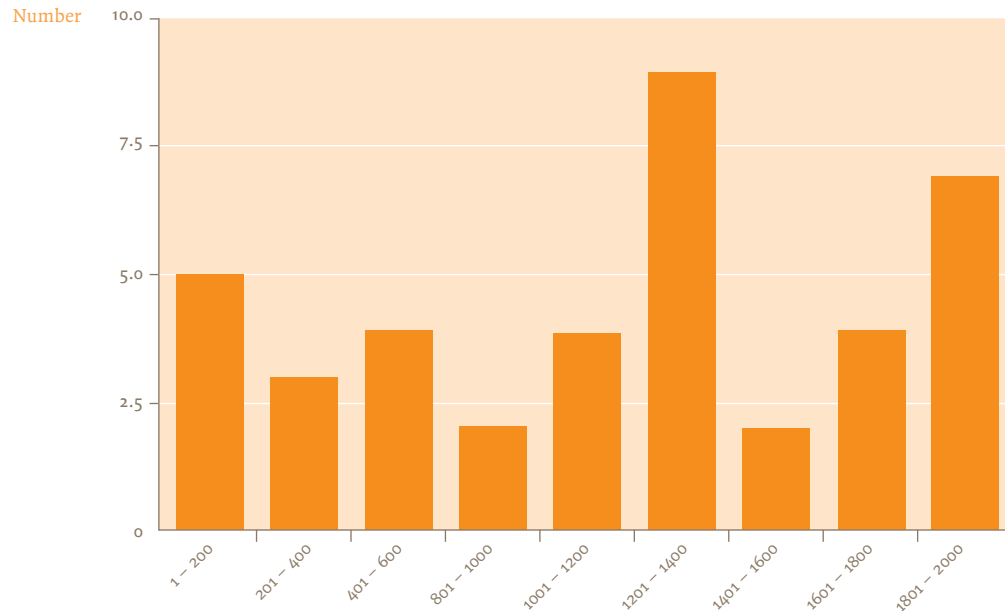


Note: in 12 cases an exact figure for the amount of rent arrears was not available in the files.

<sup>13</sup> The following categories were added together: rent arrears, rent arrears / over-holding and rent arrears / breach of tenant obligations.

Figure 4.2 below shows the range of rent arrears for less than €2,000 in more detail. There is a concentration of arrears between €1,201 and €1,400 (n=9). The next most frequent range of arrears is between €1,801 and €2,000 (n=7).

**Figure 4.2** Range of Rent Arrears less than €2000 (number)



#### 4.1.2 ADDITIONAL CHARGES

In examining the Determination Orders in relation to rent arrears it was apparent that there were additional charges (such as arrears on utility bills, refuse charges etc.) to be paid to the landlord in 35 per cent of these cases (n=45). The average amount of additional charges was €1,689, while the median payment was €600. These additional charges related to utility bills (n=13), damages to goods and contents (n=10), monetary damages to the landlord (n=8), cleaning (n=6), rent owing (n=5), repairs (n=4) and refuse charge (n=3). In two cases, the additional payments were not specified and in some instances additional payments were made for more than one reason.

#### 4.1.3 EVIDENCE

Table 4.1 below gives details of the type of evidence presented at cases in relation to rent arrears. The most frequent types of evidence presented were lease agreements (n=52) and letters to tenants in relation to rent arrears (n=51). Following on from this, photos (n=20) and other documentary evidence (n=20) were presented at the hearing. Less frequently, receipts (n=17), bank documentation (n=16), letters to landlords in relation to rent arrears (n=13) and social welfare documentation (n=12) were presented. In 16 cases no evidence was presented.

**Table 4.1** Evidence presented to the hearing (number)

EVIDENCE	ADJUDICATION	MEDIATION	STRAIGHT TO TRIBUNAL	TRIBUNAL FOLLOWING ADJUDICATION	TRIBUNAL FOLLOWING MEDIATION	TOTAL
LEASE AGREEMENT	45	2	-	5	-	52
LETTERS TO TENANTS RE: RENT ARREARS	45	2	-	4	-	51
PHOTOS	17	-	-	3	-	20
RENT BOOK	18	-	-	-	-	18
OTHER DOCUMENTARY EVIDENCE	18	2	-	-	-	20
RECEIPTS	15	-	-	2	-	17
NO EVIDENCE	13	1	1	1	-	16
BANK DOCUMENTATION	15	-	-	1	-	16
LETTERS TO LANDLORDS RE: RENT ARREARS	13	-	-	-	-	13
SOCIAL WELFARE DOCUMENTATION	10	-	-	2	-	12

Totals add to more than 130 as in some cases more than one type of evidence was presented.

## 4.2 ANTI-SOCIAL BEHAVIOUR

Issues relating to anti-social behaviour can be referred by the landlord, tenant or by a third party applicant<sup>14</sup>. Tenants are obliged not to engage in anti-social behaviour in or in the vicinity of the dwelling under Section 16(h) of the Residential Tenancies Act, 2004. Under Section 15 of the Act, landlords have a duty to third parties to enforce tenant obligations and under Section 77 third parties can refer complaints to the Board that landlords have breached this duty.

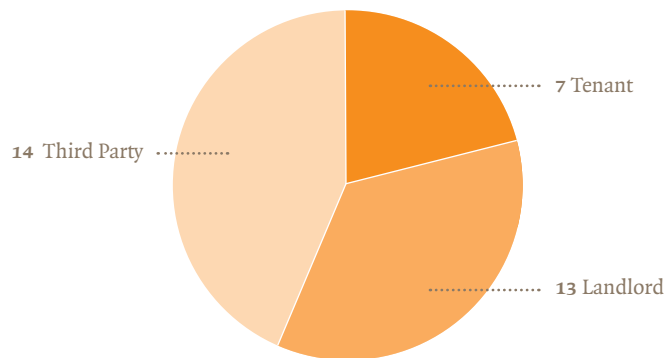
Table 2.4 outlined that 33 completed cases of alleged anti-social behaviour examined in detailed. Of these cases, most (21) involved adjudication, 10 were heard by Tribunal (5 cases were sent straight to Tribunal, 4 appealed to Tribunal following adjudication and one case went to Tribunal following mediation). Two cases were concluded by way of mediation.

<sup>14</sup> The Board has also acknowledged the importance of this issue and an international literature review on this issue has been carried out by Candy Murphy and Associates (see [www.prtb.ie/downloads.htm](http://www.prtb.ie/downloads.htm)). Following the publication of this report a call for submissions was launched on this issue in order to inform the Board on the best way forward.

#### 4.2.1 APPLICANT DETAILS IN RELATION TO ANTI-SOCIAL BEHAVIOUR

Figure 4.3 below outlines the applicant details in relation to cases referred to the Board in relation to a tenant's alleged anti-social behaviour. Tenants were the least likely to refer disputes relating to a fellow tenant's alleged anti-social behaviour (n=7). Both landlords (n=13) and third party applicants (n=14) were almost equally likely to apply for dispute resolution services for this issue. Section 2 earlier outlined that there were 33 completed files on this issue. There were five additional cases in relation to anti-social behaviour categorised in the breach of tenant obligations section of the questionnaire.

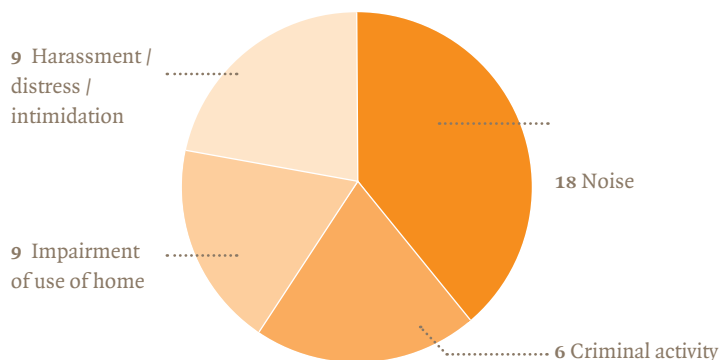
**Figure 4.3** Applicant details in relation to alleged anti-social behaviour by tenants (number)



#### 4.2.2 NATURE OF THE ANTI-SOCIAL BEHAVIOUR

The issue of anti-social behaviour is quite broad and therefore the categories presented in Figure 4.4 endeavour to capture the issues raised in the disputes in a wide sense. The most frequently referred to issue was in relation to noise (n=18) followed by the issue of impairment of use of home (n=9). Issues relating to harassment / intimidation (n=9) were also noted as being referred to by applicants. Following on from this, the issue of criminal activity (n=6) was also noted.

**Figure 4.4** Nature of anti-social behaviour referred to the Board (number)

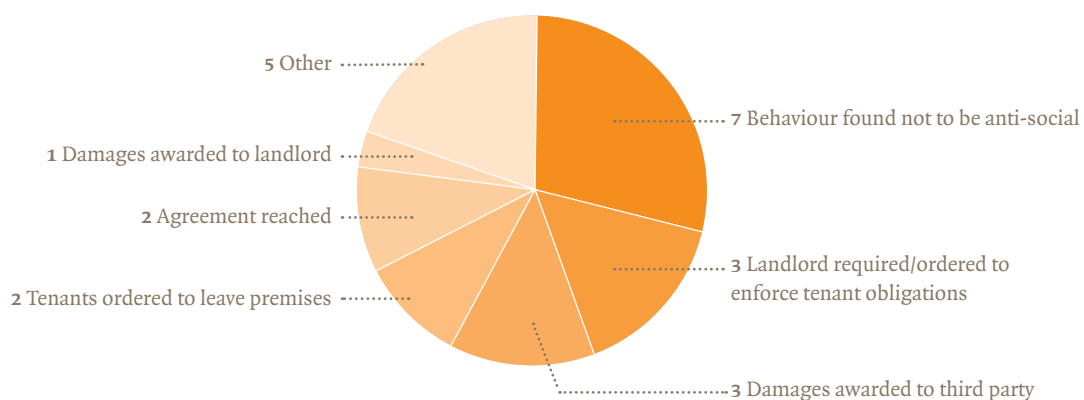


Note: Total add to more than 33 as in some cases applicants referred to more than one issue.

4.2.3 OUTCOME OF ANTI-SOCIAL BEHAVIOUR CASES

Figure 4.5 below shows the outcome of cases in relation to anti-social behaviour. In 7 cases the behaviour was found not to constitute ‘anti-social behaviour’ within the meaning of the legislation. In cases where anti-social behaviour was found to have occurred, landlords were ordered to enforce tenant obligations in three cases, damages were awarded to a third party in three cases and the tenant was required to leave the dwelling in a further two cases. Agreement was reached in two cases, and damages awarded to the landlord in one case. In respect of the remaining 5 cases it may be that the dispute may have been classified as anti-social behaviour but upon closer inspection another more significant issue may have been examined (e.g. case may have also related to rent arrears).

**Figure 4.5** Outcome of anti-social behaviour cases (number)



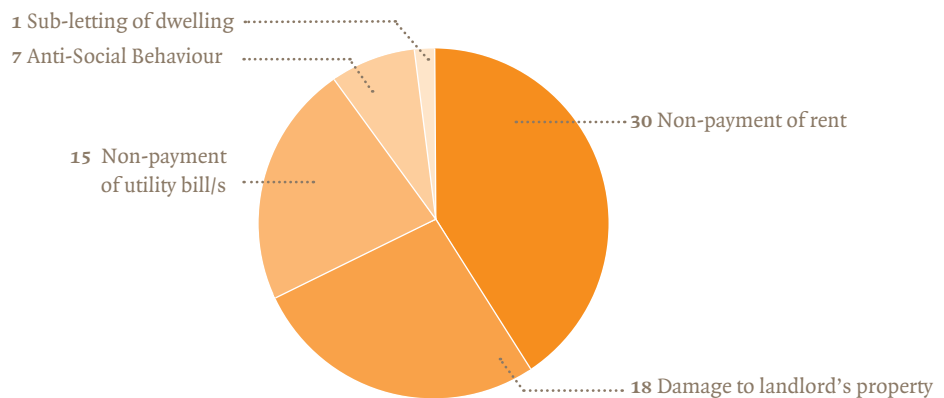
### 4.3 BREACH OF TENANT OBLIGATIONS

The Residential Tenancies Act 2004 (section 16) sets down the following obligations of tenants:

- pay the rent and any other specified charges
- avoid causing, or make good, any damage beyond normal wear and tear
- notify the landlord of any repair requirements
- allow access for repairs to be carried out and by appointment allow routine inspections
- keep the landlord informed of the identity of the occupants
- not engage in or allow anti-social behaviour
- not act, or allow visitors to act, in a way that would invalidate the landlord's insurance
- not cause the landlord to be in breach of statutory obligations
- not alter, improve, assign, sub-let or change the use of the dwelling without written consent from the landlord

This section will briefly outline the nature of complaints of breaches of tenant obligations referred to the Board and the outcome of these cases. As Table 2.4 above showed, 49 completed files involving alleged breaches of tenant obligations were examined. Figure 4.6 outlines that the issue of non-payment of rent was referred to frequently in these cases (n=30). This issue has been covered in more detail at the start of this section. Damage to landlord's property was also a frequently referred issue (n=18), along with the non-payment of utility bills (n=15). There were very few cases involving alleged breach of tenant obligation due to anti-social behaviour (n=5), also covered earlier in this section. Unauthorised sub-letting of the dwelling was only referred to in one case.

**Figure 4.6** Nature of breach of tenant obligation cases referred to the PRTB (number)



Note: Total adds to more than 49 as in some cases applicants referred to more than one issue.



The outcome of the majority of cases referred to the Board in relation to these complaints was in favour of the landlord (n=42) with only four cases going in favour of the tenant. In the 3 remaining cases, the determination was found in favour of neither party. This means that there was no clear cut winner i.e. not in favour of either the applicant or respondent.

#### 4.4 CONCLUDING COMMENTS

This section of the report has provided an outline of the primary disputes referred by landlords. In particular, this section focused on the issue of rent arrears and breach of tenant obligations. Disputes relating to anti-social behaviour were also examined. The next and final section of the report will provide a summary of the main findings, together with recommendations.



## SECTION 5

### Conclusions and Recommendations

This final section of the report begins by providing a summary of the key findings of the report. It then raises a number of issues that might be considered further by the PTRB.

#### 5.1 SUMMARY OF KEY FINDINGS

The key findings of each section of the report are outlined here.

##### Sections 1 and 2:

- The number of disputes being referred to the PRTB increased by almost 400 cases (or 43 per cent) between 2005 and 2006. There were 892 disputes were referred to the PRTB in 2005 – this rose to 1,278 in 2006.
- Disputes referred to the PRTB make up a small proportion of all tenancies. In both 2005 and 2006 the number of disputes referred to the PRTB equalled to in the region of one per cent of registered tenancies.
- About two-thirds of disputes are referred to the Board by tenants, with most of the remaining third coming from landlords and a small amount from third parties.
- 60 per cent of disputes referred to the PRTB in 2006 related to unregistered tenancies. From the end of 2006 to the end of November 2008, tenancy registration has increased by 105,550.

- Of the cases examined for this research, approximately 90 per cent chose adjudication while only 6 per cent chose mediation. In total, 15 per cent of cases go to a Tribunal. However only a third of these go straight to Tribunal, the rest appealed to Tribunal following adjudication or mediation.
- Almost 60 per cent of dispute cases taken by tenants relate to deposit retention. Of the 1,393 files examined as part of this research, 474 (43 per cent) of cases deposit retention was an issue.
- From the point of view of landlords, rent arrears was more frequently referred to the Board than other categories of dispute. Half of all rent arrears cases related to amounts of less than €3,000, but some very large amounts of rent arrears were also recorded.

### Section 3:

- A significant reason given by landlords for the retention of the deposit related to the alleged damages to goods and contents.
- The value of the deposit or part thereof retained was €700 or less in half of the cases examined.
- The PRTB determined that in 40 per cent of the cases the deposit was to be returned to the tenant without any deductions.
- Analysis of the deductions to be applied to deposits showed that repairs, rent due and cleaning costs were the most frequently applied.
- Breach of landlord obligations was another issue frequently referred to the Board by tenants. A large proportion of these breaches referred to the standard of the accommodation and the need for repairs to be carried out in accordance with normal wear and tear. In half of these cases (51 per cent), the landlord was found to be in breach of his obligations, in 29 per cent of cases the allegation was not upheld. In the remaining cases agreement was reached or the decision was split.
- 16 cases of alleged illegal evictions were examined – in 80 per cent of cases an illegal eviction was found to have taken place.

### Section 4:

- The issue of rent arrears was a significant issue for landlords. Half of the cases of rent arrears amounted to less than €3,000 each but cases of considerable rent arrears (up to €31,550) were also recorded. In about one-third of these cases the tenant was liable for additional charges (to cover, for instance, utility bills, damages, cleaning).
- Landlords, tenants and third party applicants referred cases relating to alleged anti-social behaviour by tenants to the Board. These cases concern complaints about such issues as noise nuisance, infringement of the peaceful use of the applicant's home and harassment and intimidation. Twenty-seven such cases were examined as part of this research and in three-quarters of these cases the PRTB found that the tenant had engaged in anti-social behaviour.

- In the majority of cases referred to the Board in relation to breach of tenant obligations, the Board found against the tenant. The main breaches of tenant obligations referred to rent arrears, damage to landlord's property and non-payment of utility bills.

## 5.2 ISSUES TO BE CONSIDERED BY THE PRTB

The following are some key recommendations to the Board given the findings of the research:

1. This research provides quantitative data on the dispute resolution service provided by the Board to date. In order to develop a greater understanding of the process and the issues referred to the Board it is recommended that in-depth qualitative research be undertaken as a next step. A methodology similar to that employed in recent research carried out on the Family Courts could be used<sup>15</sup>. In addition, interviews with key personnel in the PRTB and with parties who have gone through the dispute resolution process could provide a valuable insight on the key issues.
2. A qualitative analysis of cases on a thematic basis should also be considered in order to gain a greater understanding of the core characteristics of these disputes. For instance, a more qualitative study of cases relating to anti-social behaviour would provide a more illustrative account of this issue.
3. Given the large proportion of disputes relating to deposit retention it is recommended that guidelines on good practice be developed for landlords and tenants. These guidelines, which could be circulated at the time of tenancy registration, could assist landlords in the management of their tenancies.
4. The PRTB should follow up the recommendations set out by Candy Murphy and Associates in their synthesis report on submissions received in relation to the issue of deposit retention and anti-social behaviour. In particular, consideration should be given to the issue of where and how deposits are held.
5. The PRTB should continue to monitor the timeframe and outcomes of disputes on an ongoing basis. In particular there should be further analysis of how long the various stages of dispute process take and how process times could be shortened.

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<sup>15</sup> See Family Law Matters series of reports [www.courts.ie](http://www.courts.ie)

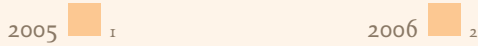
# Appendix 1

## QUESTIONNAIRE

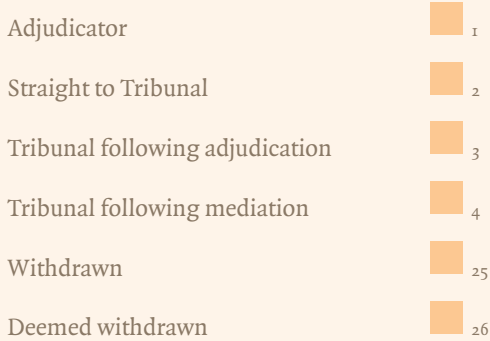
CHR Code:

PRTB Code:

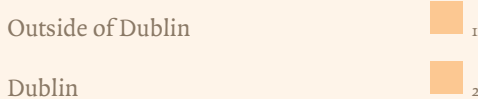
Year:



### Dispute Resolution Mechanism:



### Geographic Area:

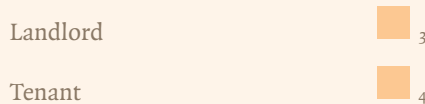


Area code:  
\_\_\_\_\_

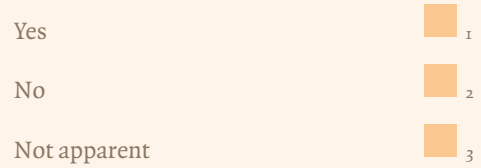
### 1. Who is the applicant (in the case of adjudication) or (appellant in the case of tribunal following mediation / adjudicator)



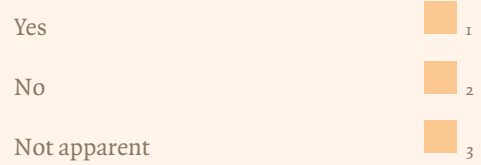
### 2. Who was the respondent?



### 3. If the tenant is the applicant (only), is the respondent landlord registered with the PRTB?



### 4. Is the tenant in receipt of Rent Supplement?



### 5. What was the nature of the dispute?



\_\_\_\_\_

**6. Members of the Tribunal:**

	Chair	Ordinary members
Tom Dunne (TAV1)	1	1
Mary Heslip (TAV2)	2	2
Fintan McNamara (TAV3)	3	3
Liam O'Donnell (TAV4)	4	4
Pat Riney (TAV5)	5	5
James Bridgeman (TLG1)	6	6
Anne Colley (TLG2)	7	7
Aideen Hayden (TLG3)	8	8
Dervla Quinn (TLG4)	9	9
Tony Taaffe (TLG5)	10	10
Charles Cochran (TLG6)	11	11
Bill Holohan (TLG7)	12	12
Michael Farry	13	13
Conn Murray	14	14
Eoin O'Sullivan	15	15
Bairbre Redmond	16	16
Withdrawn	25	25
Deemed withdrawn	26	26
N/A	89	89

**7. Adjudicator (get data from PRTB / analyse by county / region level)**

County	1
Region	1

**8. Did the tenant attend the dispute resolution hearing?**

Yes	1
No	2
Represented by relative	3
Represented by advocate	4
Represented by an other	5
Withdrawn	25
Deemed withdrawn	26

**9. Did the tenant have legal representation?**

Yes	1
No	2
Withdrawn	25
Deemed withdrawn	26

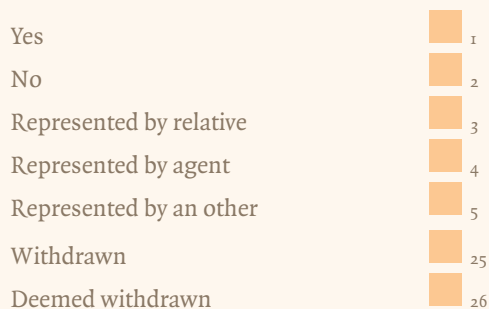
**10. Was this representation?**

Solicitor	1
Barrister (Junior Counsel)	2
Barrister (Senior Counsel)	3
N/A	89
Withdrawn	25
Deemed withdrawn	26

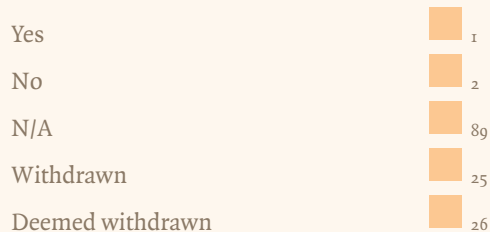
**11. How many witnesses appeared on behalf of the tenant?**

None	93
One	1
Two	2
Three	3
Four	4
Five	5
Six	6
Seven	7
Eight	8
Nine	9
Ten and over	10
Other	33
Withdrawn	25
Deemed withdrawn	26

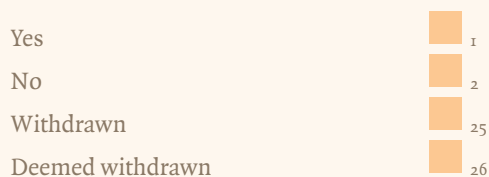
**12. Did the landlord attend the dispute resolution hearing?**



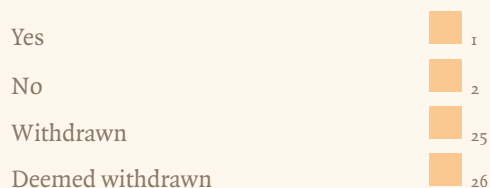
**16. Attendance of third party applicant / appellant (if applicable)**



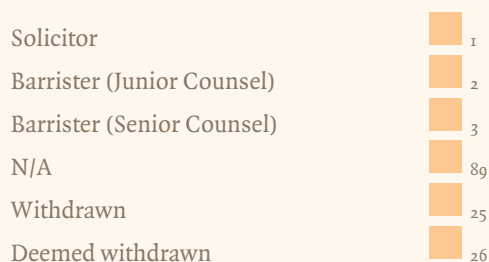
**13. Did the landlord have legal representation:**



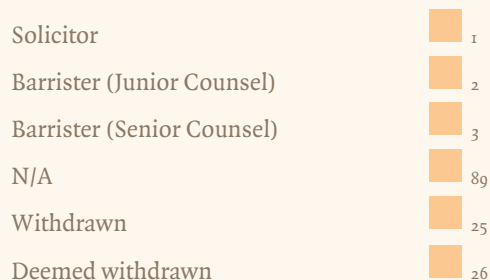
**17. Did the third party applicant / appellant have legal representation?**



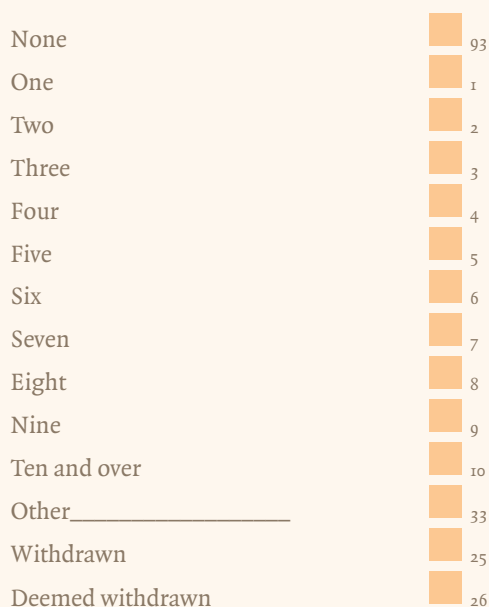
**14. Was this representation:**



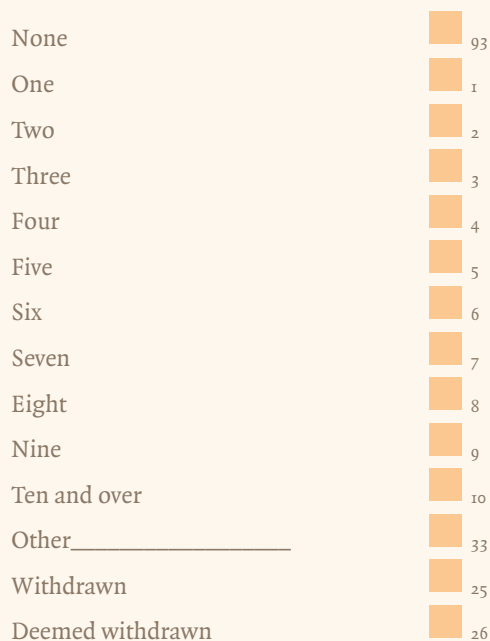
**18. Was this representation?**



**15. How many witnesses appeared on behalf of the landlord?**



**19. How many witnesses appeared on behalf of the third party applicant / appellant?**



**20. What was outcome of this process?**

In favour of applicant / appellant	1
In favour of respondent	2
Neither	3
Withdrawn	25
Deemed withdrawn	26

**21. What was the outcome of the tribunal where tribunal is second dispute resolution mechanism?**

Original order upheld	1
Original order overruled	2
Original order not fully upheld	3
N/A	89
Withdrawn	25
Deemed withdrawn	26

**23. Were there other significant matters involved in the dispute?**

Yes	1
No	2
Withdrawn	25
Deemed withdrawn	26

**24. Reference to other legislation**

Equal Status Act	1
Criminal Justice Act 2004	2
Other_____	33
Withdrawn	25
Deemed withdrawn	26

**25. Did the Determination Order refer directly to the Residential Tenancies Act?**

Yes	1
No	2

**26. If yes, which part of the act was referred to?**

_____N/a	89
----------	----

**27. How specific was this reference?**

General reference to the RTA 2004	1
Reference to the section	2
Reference to the section and sub-section	3
Reference to the section, sub-section and paragraph	4
Reference to the section, sub-section, paragraph and sub-paragraph	5
Other_____	33

**28. Were there costs awarded in this case?**

Yes	1
No	2

**29. If yes who were the costs awarded to?**

Tenant	1
Landlord	2
PRTB	3
N/A	89

**30. What was the monetary value of these costs?**

€_____ N/A	89
------------	----

**31. What did these costs refer to?**

Legal costs	1
Travel costs	2
N/A	89
Other_____	33



## 32. Were there damages awarded?

Yes	1
No	2

## 33. If yes who were these damages awarded to?

Tenant	1
Landlord	2
N/A	89

## 34. What was the monetary value of these damages?

€ _____ N/A	89
-------------	----

## 35. What was the date of the application to the PRTB?

\_\_\_\_/\_\_\_\_/\_\_\_\_

## 36. What date did the adjudication sit?

____/____/____ N/A	89
--------------------	----

## 37. What date did Board issue the determination order from the adjudication?

____/____/____ N/A	89
--------------------	----

## 38. What date was the appeal lodged?

____/____/____ N/A	89
--------------------	----

## 39. What was the date of the sitting of the tribunal?

____/____/____ N/A	89
--------------------	----

## 40. What date did the Board issue the Determination Order from the Tribunal?

____/____/____ N/A	89
--------------------	----

## A: ANTI-SOCIAL BEHAVIOUR

## A1. Who was the applicant / appellant

Landlord	1
Third Party	2
Tenant in shared accommodation	3

## A2. What evidence was produced in relation to the anti-social behaviour?

Garda report / statement	1
Third party witness	2
Photographs	3
Video evidence	4
Documentary evidence	5
No evidence	36

## A3. What evidence was produced to the contrary?

Third party witness	1
Documentary evidence	2
Statement from third party	3
Statement from an other	4
No evidence	5
Other (please specify)	33

\_\_\_\_\_

**A4. What was the nature of the anti-social behaviour?**

Noise	1
Criminalisation	2
Harassment	3
Alarm / distress / intimidation	4
Impairment of use / enjoyment of home	5
Other (please specify)	33

---

**A5. What was the outcome of the dispute resolution mechanism?**

Damages awarded to third party	1
Damages awarded to landlord	2
Tenant asked to leave premises	3
Outside jurisdiction of PRTB	4
ASB not in accordance with legislation	5
Other (please specify)	33

---

**A6. What was the reason for the decision of the dispute resolution mechanism?**

Non-appearance by tenant	1
Non-appearance by landlord	2
Findings of fact	3
Upholding decision of previous mechanism	4
Evidence not upheld	5
No evidence to the contrary	6
Other (please specify)	33

---

**B: DEPOSIT RETENTION**

**B1. What was the reason for the retention of the deposit or part thereof**

Structural damage to property	1
Rent arrears	2
Invalidity of notice to termination	3
Anti-social behaviour	4
Loss of fees to agent	5
Breach of tenant obligations	6
Damage to goods and contents	7
Other (please specify)	33

---

**B2. What is the monetary value of the deposit or part thereof retained:**

€ \_\_\_\_\_

**B3. What was the outcome of the deposit retention case:**

Full amount returned to tenant	1
Full amount retained by landlord	2
Partial amount returned to tenant (less arrears)	3
Partial amount returned to tenant (less damages)	4
Partial amount returned to tenant (less arrears and damages)	5
N/A	6

**B4. What evidence was presented by the landlord for the retention of the deposit?**

Receipts	1
Photographic evidence	2
Third party evidence	3
Evidence of landlord	4
Admittance by tenant	5
Other (please specify)	33

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N/A 89

**B5. What evidence was presented by the tenant to justify the return of the deposit?**

Receipts	1
Photographic evidence	2
Third party evidence	3
Evidence of landlord	4
Rent book	5
Other (please specify)	33
<hr/>	
N/A	89

**B6. What was the reason for the decision**

Non-appearance by tenant	1
Non-appearance by landlord	2
Findings of fact	4
Upholding decision of previous mechanism	5
Outside jurisdiction of PRTB	6
Evidence not upheld	7
No evidence to the contrary	8
Other (please specify)	33
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**B7. Did the Landlord offer to return part of the deposit?**

Yes	1
No	2

**B8. If Yes, how much was offered?**

€_____ N/A	89
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**B9. Did the tenant accept this?**

Yes	01
No	2
N/A	89

**B10. Was interest added on to any monetary award of money due to either party?**

Yes	1
No	2

**B11. If yes, what was this rate of interest?**

\_\_\_\_\_ %

**C: ILLEGAL EVICTION****C1. Reason for eviction**

Rent arrears	1
Within first six months of tenancy	2
Non-payment of utilities	3
Damage to property	4
Breach of tenant obligations	5
Anti-social behaviour	6

**C2. How was the notice served?**

Verbally	1
In writing	2
By a third party	3
No notice (changing of locks)	4
Forceful eviction	5

**C3. What evidence was presented by the tenant?**

Witness	1
Advocate	2
Impact statement	3
Damage to personal property	4
Expenses incurred	5
Personal trauma	6

Documentation	7
Written notice	8
Receipts from expenses	9
Statement from third party witness	10
Statement from other tenant witness	11
Garda statement	12
Receipts / documents referring to replacement property	13
No evidence	36

**C4. What evidence was presented by the landlord?**

Rent book	1
Documentation relating to rent arrears	2
Documentation relating to damage to property	3
Photographs of damage to property	4
Statement from witness relating to anti-social behaviour	5
Garda report	6
No evidence	36
N/A	89

**C5. Outcome of illegal eviction case**

Tenant required to terminate tenancy	1
Tenant awarded damages	2
Landlord to reinstate tenancy	3
Withdrawn	4
Deemed withdrawn	5

**C6. Reason for decision**

Non-appearance by tenant	1
Non-appearance by landlord	2
Within six months of tenancy	3
Part four tenancy	4

Findings of fact	5
Upholding decision of previous mechanism	7
Other (please specify)	33

**D: INVALID NOTICE**

**D1. Who was the invalid notice given by:**

Landlord	1
Tenant	2

**D2. What was the reason for invalid notice?**

Rent arrears	1
Non-payment of bills	2
Anti-social behaviour	3
Breach of landlord obligations	4
Breach of tenant obligations	5
No reason apparent	6
Other_____	33

**D3. What evidence was presented by the tenant?**

Witness	1
Advocate	2
Impact statement	3
— Damage to personal property	4
— Expenses incurred	5
— Personal trauma	6
Documentation	7
— Written notice	8
— Receipts from expenses	9
— Lease agreement	10
No evidence	36

**D4. What evidence was presented by the landlord?**

Lease agreement	1
Written notice	2
Damage to property (structural)	3
Damage to goods and contents	4
Rent book	5
Evidence re: non payment of utilities	6
Other (please specify)	33
<hr/>	
No evidence	36

**D5. What was the outcome of the dispute resolution process?**

Tenant to pay rent due to landlord	1
Landlord to reinstate tenancy	2

**D6. What was the reason for the decision?**

Non-appearance by tenant	1
Non-appearance by landlord	2
Reference to legislation	3
Findings of fact	4
Upholding decision of previous mechanism	5
Part Four tenancy	6
Other (please specify)	33
<hr/>	

**E: OVERHOLDING****E1. How long is the tenant overholding for?**

No. of \_\_\_\_\_ months \_\_\_\_ weeks \_\_\_\_ days

**E2. Was the Notice of Termination in accordance with the relevant section of the Residential Tenancies Act?**

Yes	1
No	2

**E3. Did the tenant have rent arrears prior to the issue of the Notice of Termination?**

Yes	1
No	2

**E4. If yes, state the amount of rent arrears until the termination of the valid Notice of Termination.**

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**E5. Has the tenant accrued rent arrears since the valid Notice of Termination expired?**

Yes	1
No	2

**E6. If yes, state the amount accrued since the termination of the valid Notice of Termination.**

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**E7. What evidence was presented?**

Notice of termination	1
Rent book	2
Documentary evidence	3
Witness	4
No evidence	36

**E8. What was the outcome of the dispute resolution process?**

Landlord to reinstate tenancy	1
Tenant to vacate forthwith	2
Tenant to vacate forthwith and to pay rent arrears	3

**E9. Reason for decision**

Findings of fact	1
Non-appearance by tenant	2
Non-appearance by landlord	3
Reference to legislation	4
Upholding decision of previous mechanism	5
Other (please specify)	33

\_\_\_\_\_

**E10. Was interest added on to any monetary award of money due to either party?**

Yes	1
No	2

**E11. If yes, what was this rate of interest?**

\_\_\_\_\_ %

**F: RENT ARREARS**

**F1. What was the amount of rent arrears prior to dispute resolution process?**

€ \_\_\_\_\_

**F2. What was the amount of rent arrears since instigation of dispute resolution process?**

€ \_\_\_\_\_

**F3. What evidence was presented?**

Rent book	1
Receipts	2
Letter to tenant re: rent arrears	3
Letter to landlord re: rent arrears	4
Bank documentation	5
Lease agreement	6
Photographs	7
Social Welfare documentation	8
Other documentary evidence	32
No evidence	36

**F4. What was the outcome of the dispute resolution process**

Tenant to pay landlord arrears in full (in favour of landlord)	1
No arrears found to exist (in favour of tenant)	2

**F5. Reason for decision**

Findings of fact	1
Non-appearance by tenant	2
Non-appearance by landlord	3
Reference to legislation	4
Upholding decision of previous mechanism	5
Other (please specify)	33

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**F6. Was interest added on to any monetary award of money due to either party?**

Yes	1
No	2

**F7. If yes, what was this rate of interest?**

\_\_\_\_\_ %

**G2. What evidence was presented to the dispute resolution mechanism?**

Documentation in relation to utility arrears	1
Photographs	2
Witnesses	3
Third party statements	4
Statement by the tenant	5
Other written documentation	6
No evidence	36

**G3. What was the outcome?**

Landlord found in breach of obligations	1
Landlord not found to be in breach of obligations	2

**G4. Reason for decision**

Findings of fact	1
Non-appearance by tenant	2
Non-appearance by landlord	3
Reference to legislation	4
Upholding decision of previous mechanism	5
Lack of evidence to the contrary	6
Other (please specify)	33

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**G: BREACH OF LANDLORD OBLIGATIONS****G1. What was the nature of the breach of landlord obligations?**

Rent set above market rent	1
Repairs to be undertaken in accordance with normal wear and tear	2
Third party complaint re: tenant	3
Landlord not registered with PRTB	4
Retention of deposit	5
Invalid notice to quit	6
Accommodation of poor quality	7
Other (please specify)	33

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## H: BREACH OF TENANT OBLIGATIONS

### H1. What was the nature of the breach of tenant obligations?

Non-payment of rent	1
Anti-social behaviour	2
Damage to landlord's property	3
Non-payment of utilities	4
Criminal activity	5
Sub-letting of dwelling or part thereof	6

### H2. Evidence presented

Rent book	1
Other documentation relating to rent	2
Third party witness	3
Photographic evidence of damage to property	4
Garda evidence or Garda report	5
Documentation relating to non-payment of utilities	6
No evidence	36

### H3. What was the outcome of the dispute resolution process?

In favour of landlord	1
In favour of tenant	2

### H4. What was the decision?

Damages awarded to tenant	1
Damages awarded to landlord	2
Tenant to evict dwelling	3
Tenant to pay rent arrears	4
Tenant to pay utilities	5

### H5. Reason for decision

Findings of fact	1
Non-appearance by tenant	2
Non-appearance by landlord	3
Reference to legislation	4
Upholding decision of previous mechanism	5
Other (please specify)	33

## I: RENT REVIEW

### I1. What issue in relation to the rent review is disputed?

Level of the rent increase	1
Notice of rent increase	2
Level and notice of rent increase	3
Number of rent increases within a year	4

### I2. What was the evidence presented by the tenant?

Rent book	1
Evidence of the market rent	2
Lease	3
Other documentation in relation to payment of rent	4
No evidence	36

### I3. What was the evidence presented by the tenant?

Rent book	1
Evidence of the market rent	2
Lease	3
Other documentation in relation to payment of rent	4
No evidence	36



**14. What was the outcome of the resolution process?**

Full increase	1
Partial increase	2
No increase	3

**15. What was the reason for the decision?**

Findings of fact	1
Non-appearance by tenant	2
Non-appearance by landlord	3
Reference to legislation	4
Upholding decision of previous mechanism	5
Other (please specify)	33

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