



## Residential Tenancies Program

### Policy and Procedure Guide

**Policy Number:** 09-002  
**Subject:** Counterclaims  
**Chapter:** Application for Dispute Resolution

<b>Legislation</b>	s. 14 and 42
<b>Definitions</b>	<b>Counterclaim:</b> an independent application brought by a respondent, which, because of the identity of the parties, can be heard at the same time as the applicant's claim. Counterclaims frequently arise from the same events as those identified in the applicant's claim but is, in principle, an independent claim.
<b>Purpose</b>	The purpose of this section is to outline the procedure for identifying and accepting counterclaims.
<b>Policy</b>	<p>After an Application for Dispute Resolution is filed with this division, the respondent named in that application may file a counterclaim prior to the scheduled hearing date assigned to the initial claim.</p> <p>The 1-year time limit for the filing of an Application for Dispute Resolution does not apply to a counterclaim. I.e., if the initial application is assigned a hearing date after the 1-year anniversary date of the termination of the tenancy, notwithstanding s. 42.(1), a party has up until that hearing date to file a counterclaim.</p> <p>Where the initial claim and the counterclaim concern the same matter or the same event, those 2 claims should also be heard at the same time. E.g., if, through the tenant's application, the tenant is seeking a determination of the validity of a termination notice issued to them by the landlord, and if the landlord is seeking an order for vacant possession based on that same termination notice in his counterclaim, those claims should be heard at the same time.</p> <p>Counterclaims which do not concern a security deposit or which concern matters unrelated to the initially filed application, may be assigned separate hearing dates if requested by the counterclaimant.</p> <p><b>Counterclaims Concerning Security Deposits</b> If the initial application concerns a tenant's request for an order for the return of a security deposit, and if the landlord's counterclaim also concerns a claim on the disposition of that deposit, that counterclaim must be filed no later than 10 days after the landlord was served with the initial application. If the counterclaim is not filed within those 10 days, the landlord loses any claim for that deposit,</p>



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	<p>and an adjudicator will order that it be returned to the tenant. Any other matters identified in the landlord's counterclaim, besides the claim for the security deposit, may still be heard and adjudicated.</p> <p>Where a counterclaim concerning a security deposit is filed within the 10 days after the landlord was served with the initial application, the initial claim and the counterclaim shall be heard at the same time.</p>
<b>Procedure Overview</b>	<p>Where a claim is filed, the intake officer must determine if a claim has already been filed which would constitute the "counterclaim." If the application is determined to be a counterclaim, the Residential Tenancies Officer must ensure that the application is marked "counterclaim" and that the 2 applications/files are linked in the Dispute Resolution System. In the case file, the counterclaim is filed as a subfolder in the original application folder.</p> <p>If the counterclaim is scheduled to be heard on the same date as the original claim, and if either of the parties have not been provided with the required 10-day period of notice, that party may either waive their right to that period of notice, or they may request that the hearing be postponed. If the party who had not received adequate notice does not attend the hearing, the hearing will be postponed.</p> <p>Where the counterclaimant does not want the same hearing date, or where the date of the first claim is not suitable, he or she must be provided with the same consideration as every other applicant by having the right to choose an alternate hearing date.</p> <p>Where this occurs, and with the consent of the original applicant, a different hearing date may be scheduled so both claims may be heard together. Otherwise, the claim and the counterclaim would be heard on separate dates. The Residential Tenancies Officer assigned the case file(s) should advise the parties that where there are 2 separate hearings, there will be 2 separate enforceable orders.</p>
<b>Forms &amp; Form Letters</b>	Application for Dispute Resolution
<b>X-Reference</b>	Application Requirements - section 09-006 of this manual. Application for Security Deposit – section 10-001 of this manual.
<b>Policy Developed</b>	September, 2000
<b>Last</b>	January, 2002



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Revision	May, 2024
Other Resources	<a href="#"><u>Limitations Act</u></a>