

Filing Answers and Counterclaims *In Landlord and Tenant Court*

This information sheet describes answers and counterclaims that tenants can file in Landlord and Tenant Court cases. A landlord or tenant who would like more information or help writing or filing papers with the court can visit the Landlord Tenant Resource Center or talk to another lawyer. There is information at the end of this sheet on where to find legal help.

■ **What is an answer?** An *answer* is a paper that explains the legal reasons or defenses why the landlord should not be able to evict the tenant. By filing an answer, the tenant is asking for a trial. For example, if a landlord claims a tenant owes rent, the tenant's answer might state that he or she does not owe the amount stated by the landlord. If a landlord claims the tenant has done something to violate the lease, the tenant's answer may state that he or she did not commit the violation the landlord alleges.

There is no charge to file an answer.

■ **Does a tenant have to file an answer?** In Landlord and Tenant Court, a tenant is not required to file an answer in most cases. However, if a tenant wants a jury trial, the tenant must file a written answer and sign the answer under oath in front of a notary public or a clerk in the Landlord and Tenant Clerk's Office in room 110. Even if a tenant is not asking for a jury trial, the tenant may want to file an answer to let the court and the landlord know about the tenant's defenses. If a tenant is not asking for a jury trial, the answer does not need to be notarized. If a tenant is not asking for a jury trial and does not want to file an answer, the tenant will need to tell the judge what his or her defenses are during the court hearing so the judge can schedule a trial.

For more answers to questions regarding a jury trial, please refer to the information sheet titled "Trials."

■ **Can the tenant file a claim against the landlord in Landlord and Tenant Court?** If the landlord is trying to evict the tenant claiming the tenant did not pay rent, the tenant can file a claim against the landlord for money. The tenant's claim is called a counterclaim, recoupment, or setoff. Although they

have different names, they are similar. If the landlord has sued the tenant for some reason other than unpaid rent, such as a violation of the terms of the lease, then the tenant cannot file a claim against the landlord.

Counterclaims, recoupments, and setoffs should be filed in writing.

■ **How do counterclaims, recoupments, and setoffs differ?** In a *counterclaim*, the tenant asks for a refund of money paid to the landlord during the past three years due to bad conditions on the property. The tenant also can ask the judge to order the landlord to make repairs to the property. In a *recoupment*, the tenant asks the judge not to make him or her pay all or some of the money the landlord is requesting due to ongoing bad conditions since the tenant moved into the property. Finally, in a *setoff*, the tenant asks the landlord to pay the tenant for any repairs made or supplies bought by the tenant to make repairs to the property during the past three years.

To win any of these claims for bad conditions on the property, the tenant will have to show there was a violation of the Housing Code, that the tenant did not cause the problem, the landlord knew about the problem, and the landlord did not fix the problem within a reasonable period of time.

■ **Is there a charge for filing a counterclaim, recoupment, or setoff?** The court charges \$10 to file a counterclaim, but there is no charge for a recoupment or setoff. If court filing fees will be a hardship for you, you can file an Application to Proceed Without Prepayment of Costs or Fees. You will appear in front of a judge who will decide whether to grant your request. If the request is granted, you will be able to file papers with the court without paying the filing fees.

Help Yourself Filing Answers and Counterclaims

■ **Is there any reason a tenant might not want to file a counterclaim, recoupment, or setoff?** Yes, in some cases a landlord can get a money judgment against the tenant if the landlord wins the case, even though the landlord would not have been able to get a money judgment had the tenant not filed a counterclaim, recoupment, or setoff. In other cases, filing a counterclaim, recoupment, or setoff does not change what the landlord can get.

■ **When can filing a counterclaim, recoupment, or setoff change whether the landlord can get a money judgment against the tenant?** If the complaint was handed to the tenant in person, the landlord already can ask for a money judgment against the tenant even if the tenant does not file a counterclaim, recoupment, or setoff. Filing any of these claims does not change what the landlord can ask for because the landlord can already get a money judgment in these types of cases.

On the other hand, if the complaint was not handed to the tenant in person (because it was posted on the tenant's door, mailed to the tenant, or handed to someone else who lives with the tenant), then the landlord cannot get a money judgment against the tenant unless the tenant files a counterclaim, recoupment, or setoff. In these cases, filing a claim does change what the landlord can request. Even if the landlord cannot get a money judgment against the tenant in a Landlord and Tenant Court case, the landlord may be able to sue the tenant in a separate case in Small Claims Court or the Civil Actions Branch to get a judgment for the money owed. If you do not understand the consequences of filing a counterclaim, recoupment, or setoff, you should speak to a lawyer.

■ **What is a money judgment?** A *money judgment* is an order from a judge directing the tenant to pay the landlord a certain amount of money. In Landlord and Tenant Court, money judgments can only be for back rent, late fees, and court costs. A tenant also can get a money judgment against a landlord if the tenant wins a counterclaim. The person who wins the judgment can collect money from the person who lost the case by requiring that money be taken out of the other party's paychecks or bank accounts to pay the judgment. The person who wins the judgment also can put a lien on any real estate the other party owns. In some cases, landlords cannot enforce money judgments because the tenant's only source of income is TANF (welfare), Supplemental Security Income (SSI), or some other public benefit. To learn more about money judgments, please see the information sheet on "Judgments," or speak to a lawyer.

Finding Legal Help

Visit www.LawHelp.org/DC for more information, including how to contact free legal service providers, or visit the Landlord Tenant Resource Center:

Landlord Tenant Resource Center
Superior Court of the District of Columbia
510 4th Street NW
Building B, Room 115
Washington, DC 20001

Telephone: 202-508-1710

Open 9:15 a.m. to noon, Monday through Friday,
except legal holidays

The D.C. Bar Pro Bono Program provides general information only. This is not legal advice. You can only obtain legal advice from a lawyer. If you need legal advice for a specific situation, contact an attorney. We make every effort to keep the legal education materials up-to-date, but laws change frequently. Therefore the D.C. Bar Pro Bono Program does not guarantee the accuracy of this information.