

Rule 5. Pleading by the Defendant

(a) IN GENERAL. In a landlord and tenant action, it is not necessary for a defendant to file any answer, plea, affidavit, or other defense in writing except as provided in Rules 6 and 13(d).

(b) COUNTERCLAIMS.

(1) *When Permitted.* In actions for recovery of possession of property in which the basis of recovery is nonpayment of rent or in which there is joined a claim for recovery of rent in arrears, the defendant may assert an equitable defense of recoupment or set-off or a counterclaim for a money judgment based on the payment of rent or on expenditures claimed as credits against rent or for equitable relief related to the premises. No other counterclaims, whether based on personal injury or otherwise, may be filed. These claims may be filed in other branches of the court.

(2) *Procedure for asserting counterclaims and defenses of recoupment and setoff.*

(A) *In General.* A counterclaim or a defense of recoupment or setoff must be in writing if it is based on the payment of rent, or on expenditures claimed as credits against rent, during a time period beyond that set forth in the plaintiff's complaint.

(B) *Time for Filing.* A defendant may file a written counterclaim at any time at least 14 days before trial if the case is scheduled for trial in the Landlord and Tenant Branch, unless the deadline is extended by the court for good cause shown. In cases transferred to the Civil Actions Branch for jury trial, any counterclaim must be included in the answer required by Rule 6 or in any amended answer filed under Civil Rule 15.

(c) PLEA OF TITLE.

(1) *Filing Requirements.* A defendant desiring to make a plea of title must file the plea in writing, under oath, accompanied by a certification that it is filed in good faith and not for the purpose of delay. Along with the plea of title, the defendant must file an application for an undertaking, or for waiver of undertaking, specifying the form and amount of any undertaking to be approved by the court.

(2) *Filing the Undertaking.* If the court approves the undertaking, the undertaking must be paid into the court registry within 7 days. After the funds are deposited in the court registry, or if the court has waived the undertaking, the clerk must certify the case to the Civil Actions Branch for an expedited trial. If the defendant fails to timely file the undertaking, the clerk must strike the plea of title unless the court, for good cause, extends the time within which the undertaking may be filed.

COMMENT TO 2024 AMENDMENTS

Subsection (b)(2)(B) of this rule has been amended to substitute "transferred" for "certified" to conform with the general restyling of the Superior Court rules.

COMMENT TO 2019 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule has also been amended to include the procedures for asserting counterclaims and defenses of recoupment and setoff and for filing an undertaking.