

Form Number 36 (version 2)

Queensland Civil and Administrative Tribunal Rules 2009 (rule 50)

Response and/or counter-application

*Refer to attached instructions prior to filling out this form.***For office use only**

Note: to be completed on each copy

Case number:**Date:****Registry:****PART A APPLICANT'S AND RESPONDENT'S DETAILS***(details from original application)***Case number** *(if known):***Applicant** *(party who completed and lodged the original application)***Respondent** *(party completing and lodging this form)***Party against whom counter-application is made** *(Name)**(only complete if this is not the applicant)*

PART B ADDRESS FOR NOTICES *(Complete only if you wish to change your address for notices. For multiple respondents attach details on a separate sheet.)*

RESPONDENT'S DETAILS *(full contact details must be supplied)*
(for multiple respondent attach details on a separate sheet)

Name

Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Contacts

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Preferred phone number</i>	<i>Alternative number</i>	<i>Email</i>

REPRESENTATIVE'S DETAILS *(if applicable)*

☐

Tick if you want this to be your address for notices

☐

Tick if you want your representative to represent you in proceedings before the tribunal *(see Part A of the instructions – you may be required to seek the tribunal's leave for this to happen by making an application under the Form 56 - Application for leave to be represented. The tribunal may not give you leave to be represented.)*

Name

Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Contacts

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Preferred phone number</i>	<i>Alternative number</i>	<i>Email</i>

PART B FOR COUNTER-APPLICATIONS ONLY
Details of the party against whom the counter-application is made
(only complete if the party named is not the applicant)

Name

Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Contacts

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Preferred phone number</i>	<i>Alternative number</i>	<i>Email</i>

PART C DETAILS OF RESPONSE

Tick the relevant box and provide details below:

☐ I admit the allegations in paragraph/s of the application.

☐ I dispute the allegations in paragraph/s of the application.

Please set out why you dispute the allegations.

PART D DETAILS OF COUNTER-APPLICATION

If there is insufficient space here please attach additional pages.

1. I want the tribunal to make the following order/s:

Please set out in numbered paragraphs.

2. The reasons I consider the order/s sought should be made are:

Please set out in numbered paragraphs. If you are making a counter-application, you need to also state the reasons why you are seeking such orders.

PART E CHECKLIST AND SIGNATURE

- ☐ I have completed all questions on the response and/or counter-application according to the instructions
- ☐ I have provided the correct number of copies of the response and/or counter-application and attachments (for the number of copies required – see the instructions)
- ☐ I am ready to proceed with this response and/or counter-application

Interpreter

Is an interpreter required? *The assistance of an interpreter is subject to approval by the tribunal.*

☐ Yes ☐ No

If YES, please specify language

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – 100 penalty units.

SIGN AND DATE HERE

The information in this response and/or counter-application is true to the best of my knowledge.

Respondent/s sign here

Date

If more than one respondent is named all must sign the response.

Instructions for completing

Response and/or counter-application

What is a response?

A response is a document that sets out each fact on which you rely to refute the application that has been made against you. It is not the proof of those facts – you will do that in your affidavits or statements.

The response should relate to the application, for example, if an applicant alleges 'the contract is a written document dated 1 July 2009' and the respondent disagrees, the response would say 'the respondent denies that the contract was a written document dated 1 July 2009 because the copy of the contract is dated 1 July 2008.'

What is a counter-application?

A counter-application is an application by the respondent against the applicant or another party. For example, in a building dispute, an applicant is a builder who has made a claim against the respondent for outstanding money. The respondent may have a claim against the applicant for damages for defective work. The respondent's claim against the applicant is called a counter-application.

Because the response and counter-application both arise out of the same transaction, it is logical to resolve them at the same hearing. This is why you should include the facts upon which your counter-application is based.

Please note that it is not necessary to make a counter-application. This part of the form is optional.

Important note:

Do not use this form for a minor civil dispute. Refer to *Form 7 - Response for a minor debt claim* and *Form 8 - counter-application for minor civil dispute* for forms relevant to these matters.

For more information visit www.qcat.qld.gov.au or call 1300 753 228.

GENERAL INSTRUCTIONS**Copies of the response and/or counter-application and providing copies to other parties**

When lodging your response and/or counter-application and any attachments, you must also provide three copies of all of the documentation being lodged and a stamped, self-addressed envelope. If there is more than one applicant and/or counter-applicant, you must include an extra copy of the response and/or counter-application form and attachments for each additional applicant and/or counter-applicant.

Instructions for completing *(continued)*

The tribunal will return sealed copies to you, at the address you provide.

Generally, you must then give a copy of the response and/or counter-application and any attachments to all parties to the proceeding as soon as practicable, and no later than seven (7) days after the response and/or counter-application is filed.

This response and/or counter-application may be lodged in person or by post

By post: QCAT, GPO Box 1639, Brisbane QLD 4001

If you are posting your original response and/or counter-application and copies to QCAT, you need to include a stamped self-addressed A4 envelope with your material.

In person: QCAT, Level 11, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD.

To find your nearest Magistrates Court, look under “Justice and Attorney-General” in the phone book or visit www.courts.qld.gov.au. For more information visit www.qcat.qld.gov.au or call 1300 753 228.

Time limits

For one of the following prescribed applications you must file and serve the response and counter-application no later than fourteen (14) days, after you were given a copy. The prescribed applications are:

- a building dispute under the *Queensland Building and Construction Commission Act 1991*
- the recovery of a debt under the *Queensland Building and Construction Commission Act 1991*
- application made under the *Domestic Building Contracts Act 2000*
- application made under the *Body Corporate and Community Management Act 1997*

For all other applications or referrals, you must file and serve the response and counter-application as soon as practicable, and no later than twenty-eight (28) days, after you were given a copy of the application.

PART A APPLICANT'S AND RESPONDENT'S DETAILS

- More than one applicant and respondent may be named in the application. If there is insufficient space for the names of either applicant or respondent you may attach additional pages with similar details.
- In an application to review a decision, the decision-maker will be the respondent.
- If the applicant or respondent is not an individual then the correct name must be used, for example:
 - a company name
 - a business name regardless of whether it is registered
 - a State agency name, for example a Queensland Government department.
- Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices.
- Any change in your address for notices must be filed in the tribunal and given to all other parties.

You must also use the correct legal name for the parties. Please refer to the tribunal's factsheet *How to identify and name the parties in QCAT* available at www.qcat.qld.gov.au

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details.

Instructions for completing (continued)

If you want your representative to represent you in any proceedings before the tribunal you must complete the *Form 56 - Application for leave to be represented*. Generally the tribunal expects people to represent themselves. It may not grant your request.

You are not required to seek leave if:

- you are a child or a person with impaired capacity
- your case is a disciplinary case or a law states that you may be legally represented.

For more information visit www.qcat.qld.gov.au or call 1300 753 228.

PART C DETAILS OF RESPONSE

- Provide the reasons you are disputing the allegations made by the applicant
- Use numbered paragraphs which are cross-referenced to the paragraphs in the applicant's application
- Include a clear outline of the history and nature of the dispute
- Set out the facts you rely on to support the counter-application
- Annex (indexed and numbered) copies of all documents to support your counter-application
- Provide the reasons you rely on to make the counter-application

PART D DETAILS OF COUNTER-APPLICATION

- If you are making a response, refer to each order that the applicant seeks, and by reference to the numbered paragraphs for that order
- State what orders you are seeking from the tribunal and why you consider the orders sought should be made

PROVING YOUR CASE

Have you included a copy of all the relevant documents and evidence? You must include a copy of all of the relevant documents that you want to use and rely on.

You must print out all electronic evidence

Sometimes evidence (such as photos or receipts) may be stored in an electronic device, such as a mobile phone, tablet or computer. Sometimes evidence may be stored on a CD or DVD. You must provide a printed copy of this evidence with your application if you wish to use and rely on it at the hearing. The Tribunal will not accept a CD or DVD for filing and will not consider evidence provided only in an electronic format.

Your Information

QCAT collects your contact details for the purposes of compliance with the *Queensland Civil and Administrative Tribunal Act 2009* in relation to proceedings in QCAT. QCAT may contact you to seek your assistance in research to assist in the evaluation of the operation of QCAT. You are not obliged to participate in feedback or surveys. If you do participate no identifying particulars will be published. QCAT will not disclose your contact details or any other personal information to a third party unless required by law.