

58-2561. Action for possession for nonpayment of rent; counterclaim, waiver; accrued rent, payment into court; disposition; when judgment for tenant. (a) In an action for possession based upon nonpayment of the rent, or in an action for rent where the tenant is in possession, the tenant shall counterclaim for any amount which such tenant may recover under the rental agreement or this act or such counterclaim shall be deemed to have been waived. In that event, the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance shall be paid by the other party. If no rent remains due after application of this section, judgment may be entered for the tenant in the action for possession.

(b) In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection (a), but the tenant shall not be required to pay any rent into court.

History: L. 1975, ch. 290, § 22; July 1.