TERMINATING AN ADJUDICATION

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Règlement des différends en matière de contrats de construction de l'Ontario

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DISCLAIMER: Please note that nothing in this document shall be considered as legal advice. Parties to disputes are advised to consult a lawyer to clarify their legal rights.

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1. Introduction

At any time before the Adjudicator makes a Determination, the Parties may agree to terminate the adjudication, subject to the payment of the Adjudicator's fee. Section 13.14 of the *Construction Act* states:

> 13.14 At any time after the notice of adjudication is given and before the adjudicator makes his or her determination, the parties to the adjudication may agree to terminate the adjudication, on notice to the adjudicator and subject to the payment of the adjudicator's fee.

2. Requesting the Other Party's Consent to Terminate the Adjudication

All Parties to an adjudication need to provide their consent to terminate an adjudication. To obtain a Party's consent to terminate an adjudication, a Claimant or Respondent can submit a termination request on ODACC's Custom System by clicking the "Terminate Case" button (refer to Figure 1).

Figure 1: Terminate Case Button
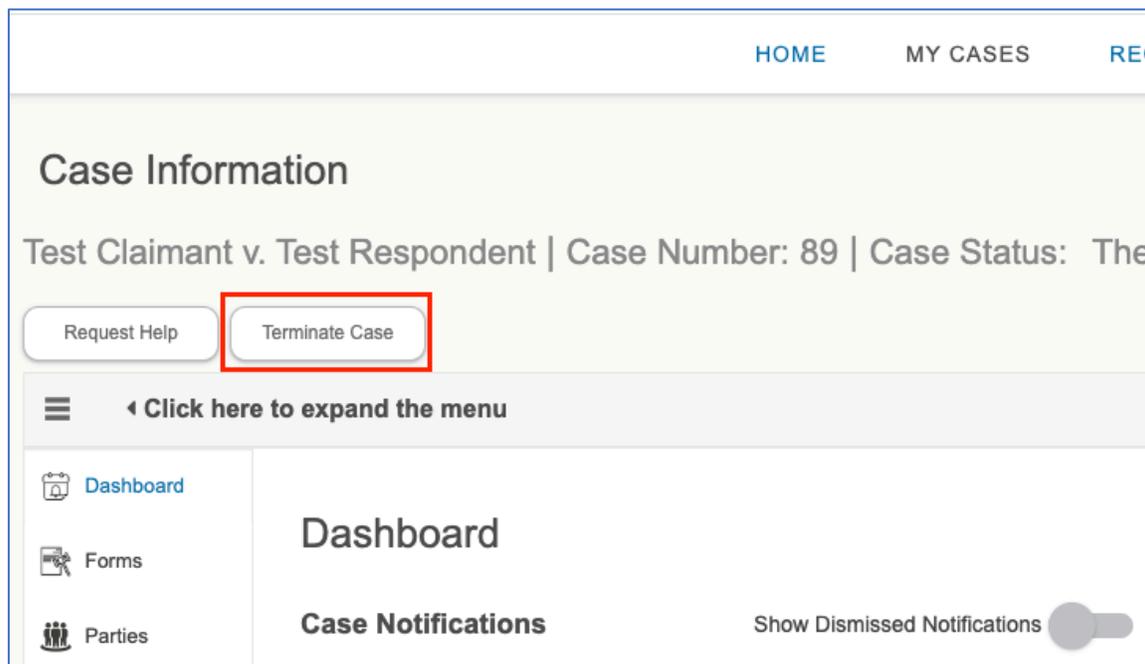
The Terminate Case button will be available to the Parties after the Respondent submits a Response to Notice of Adjudication. If the Parties wish to terminate the adjudication before the Respondent submits its response, please email ODACC at support@odacc.ca and ODACC will make the "Terminate Case" button visible.

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On the "Termination" page, the Party initiating the termination should select the reason for the termination from the drop-down menu and press the "Submit" button, as shown at Figure 2.

Figure 2: Submit Termination Page

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3. Responding to a Termination Request

After the termination request is submitted, the responding Party will receive an email informing him or her that a request has been submitted to terminate the adjudication, and asking the Party to log in to ODACC's Custom System to view the request. On the system, there will be a notification stating, "[NAME] requested that this adjudication be terminated. Please click here to respond to the termination request."

Figure 3: Notification of Termination Request

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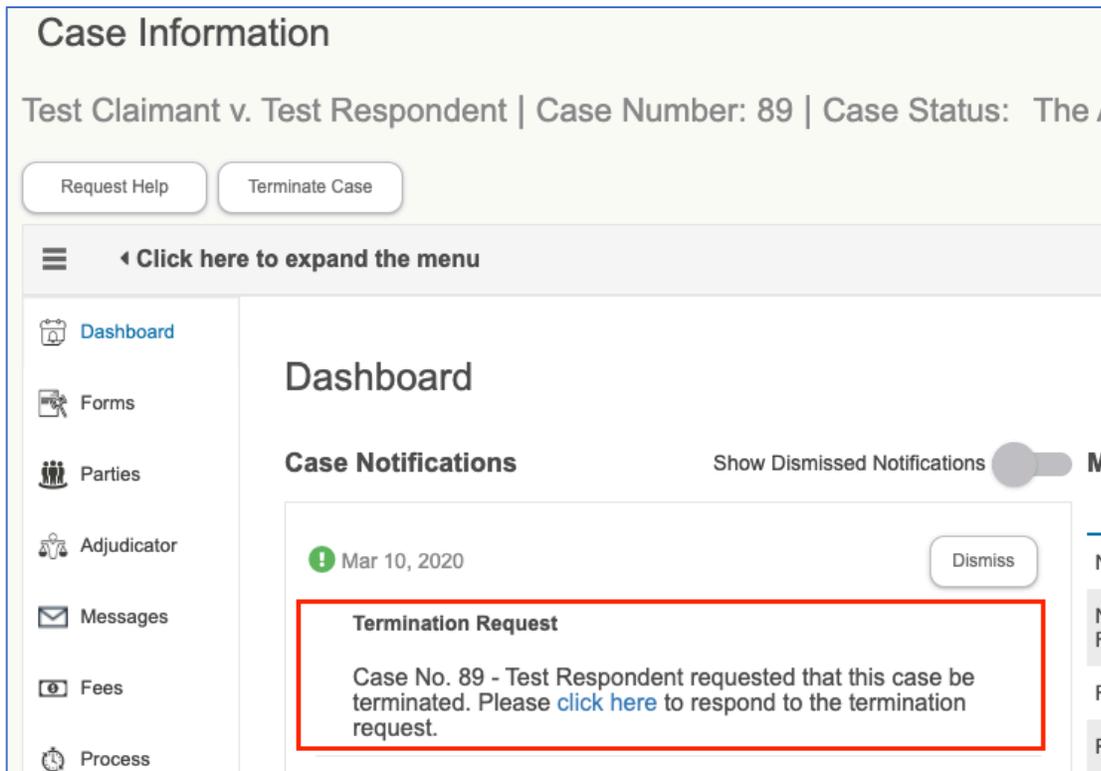
The notification contains a link to the Termination page, where the responding Party can indicate if they consent to terminate the adjudication by clicking on "Approve" or "Reject", as shown at Figure 4.

Figure 4: Reviewing and Responding to a Termination Request

3.1 Rejecting the Request to Terminate the Adjudication

If the responding Party rejects the request to terminate the adjudication, the other Party will receive an email from communications@odacc.ca with the subject line "Termination Request Rejected." On ODACC's Custom System, there will also be a notification stating that the request to terminate the adjudication was rejected. The adjudication will proceed.

3.2 Consenting to Terminate the Adjudication

If all Parties consent to terminate the adjudication, the chart at the bottom of the Termination page (refer to Figure 5) will be updated to indicate that all Parties consent.

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Figure 5: All Parties Consent to Terminate the Adjudication
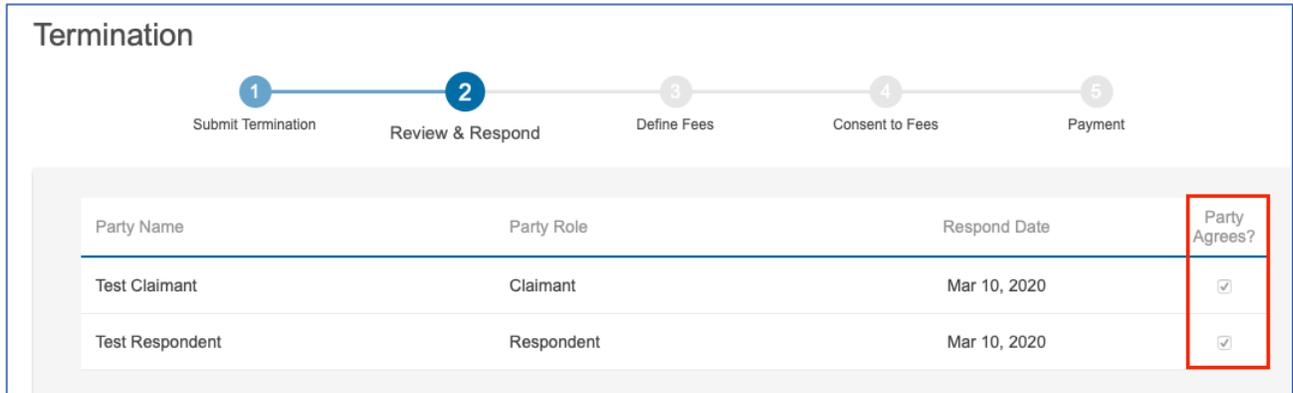
If all Parties consent to terminate the adjudication, the Parties will receive an email from communications@odacc.ca asking them to log in to ODACC's Custom System. On the system, the case status will read "Parties Consent to Terminate Case" and there will be a notification stating that the Adjudicator has been asked to set the Adjudication Fee (Refer to Figure 6).

If the Parties agree to terminate the adjudication before an Adjudicator is appointed, then ODACC will set the Adjudication Fee at $0.

Figure 6: Dashboard After Parties Agree to Terminate Adjudication
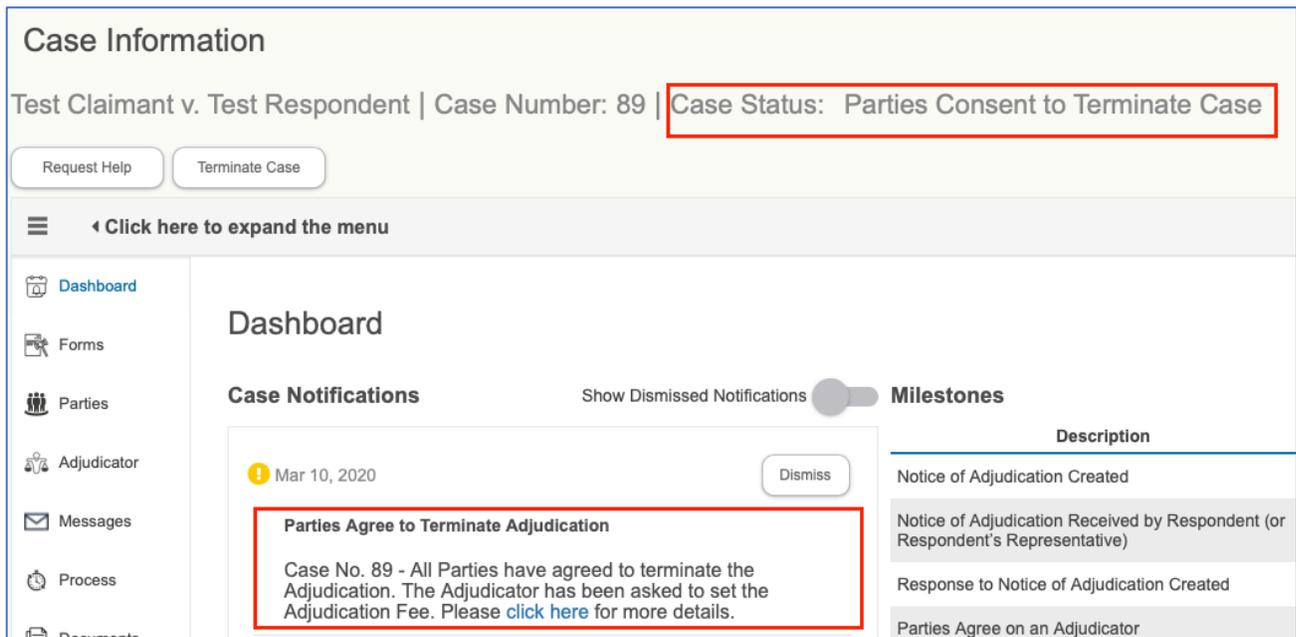
3.2.1 Negotiating the Adjudication Fee with the Adjudicator

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If all Parties agree to terminate the adjudication, the Adjudicator will be sent an email informing the Adjudicator that the Parties have agreed to terminate the adjudication. The Adjudicator and Parties will need to negotiate the Adjudication Fee. After the Parties and Adjudicator agree on an Adjudication Fee, the Adjudicator will enter the Adjudication Fee on the Termination page of ODACC's Custom System. After an Adjudicator enters the Adjudication Fee on ODACC's Custom System, the Parties will receive an email from communications@odacc.ca asking them to log in to ODACC's Custom System. On the Termination page, the Parties will be instructed to review the Adjudication Fee that was negotiated with the Adjudicator and to indicate that it's the agreed amount (refer to Figure 7).

Figure 7: Adjudication Fee Negotiated with Adjudicator

After all Parties approve the Adjudication Fee, the chart at the bottom of the Termination page will be updated (refer to Figure 8) and the Parties will be able to pay outstanding amounts on ODACC's Custom System (refer to Figure 10).

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Figure 8: Adjudication Fee Approved by Parties

3.2.2 Adjudication Fee Set by ODACC

If the Parties and the Adjudicator are unable to negotiate an Adjudication Fee, the Adjudicator will ask ODACC to set the Adjudication Fee. ODACC will set the Adjudication Fee in accordance with the Schedule of Fees. If the Parties agree to terminate the adjudication before an Adjudicator is appointed, then ODACC will set the Adjudication Fee at $0. After ODACC sets the Adjudication Fee, the Parties and the Adjudicator will be notified via email and asked to log in to ODACC's Custom System to view the amount. On the system, the Parties will have a notification stating "ODACC has set the Adjudication Fee owing at termination" (refer to Figure 9).

*Figure 9: Notification After ODACC Sets Adjudication Fee*

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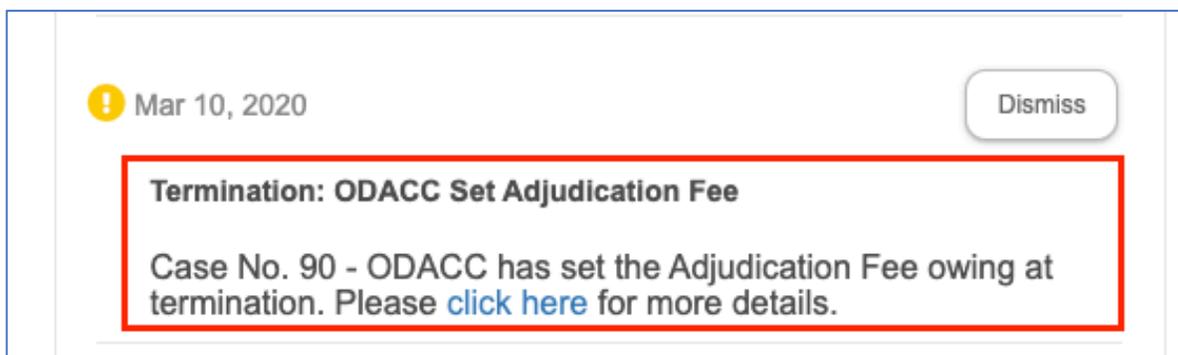
The Parties will be able to pay outstanding fees by clicking on the "Click Here to Pay" link on the Termination page (refer to Figure 10).

Figure 10: Payment Page

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4. Closing the Adjudication File

Once all fees have been paid, ODACC will close the adjudication file.