



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MNDC, RP, PSF, O

### Introduction

This matter dealt with an application by the Tenant for compensation for emergency repairs and for services and facilities agreed to but not provided. The Tenant also applied for an Order that the Landlord make repairs to the rental unit. At the beginning of the hearing the Tenant confirmed that there were no emergency repairs and as a result, that part of her application is dismissed.

### Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?
2. Are repairs required to the rental unit?

### Background and Evidence

This tenancy started on June 15, 2008. Rent is \$800.00 per month. The Tenant said that when she moved in she noticed that the water in the shower would often fluctuate from hot to cold. The Tenant said she believed there was nothing that could be done about this and therefore did not bring it to the Landlord's attention. The Tenant claimed that on August 11, 2009 she spoke with the Landlord's caretaker and discovered that this problem had been addressed in some other units of the rental property. Consequently, the Tenant contacted the Landlord by telephone but he claimed that it met required minimum standards and that it did not need to be upgraded.

The Tenant claimed that in subsequent e-mail correspondence with the Landlord (between August 14 and 31, 2009), she demanded that he make upgrades to the water regulator and that the Landlord pay for her to stay in a motel for 5 days as well as pay for compensation for not having that upgrade since the beginning of the tenancy. The Tenant said that while the Landlord was agreeable to making the upgrade, he refused to do so if the Tenant intended to also pursue a claim for compensation.

The Landlord claimed that he offered 3 options to the Tenant to upgrade the water service in her rental unit. The Landlord said that he was initially mistaken about what type of water controls were in the rental unit and thought it might take 5 days to make an upgrade. The Landlord said that he later discovered that the upgrade would only

take 4 – 5 hours but he felt that the Tenant's claim for compensation was inappropriate and wanted to have the matter resolved at a dispute resolution hearing. The Landlord said it was his practice over the past 10 years to make these kinds of upgrades once a unit was vacated, if a bath surround had to be replaced or if a tenant complained. In any event the Landlord argued that the building was built in the 1960s and that the manual controls in the rental unit were the minimum required standards. The Landlord also argued that he should not be responsible for compensating the Tenant for not having upgraded water controls prior to August 2009 because she never told him there was a problem.

## Analysis

Section 32 of the Act says that a Landlord has a duty to,

“maintain a residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and that having regard to the age, character and location of the rental unit, makes it suitable for occupation by the tenant.”

The Tenant provided no evidence that the Landlord agreed to upgrade the water controls as a condition of her entering the tenancy agreement. The Tenant also provided no evidence that the manual water temperature controls in the shower did not comply with health, safety or housing standards such as a Building Code. I also find that the Tenant has provided insufficient evidence to conclude that the Landlord's failure to upgrade the manual water controls rendered the rental unit unfit for occupation.

Fairness also requires that if the Tenant intends to recover damages from the Landlord for a failure to make repairs, that the Landlord knows about the problem and has a reasonable opportunity to address it. In this case, I find that the Tenant did not advise the Landlord about her issue with the water controls until August 11, 2009. Consequently, the Tenant cannot recover compensation from the Landlord for the “Tenant's inconvenience” for a period prior to that time when for which he had no knowledge. For all of these reasons I find that there are no grounds for the Tenant's application for compensation and it is dismissed without leave to reapply.

The Tenant admitted that she intended to move out before a Notice of Rent Increase took effect on December 1, 2009. In the circumstances, I find that it is not appropriate to make any orders with respect to the repairs requested and that part of the Tenant's application is dismissed.



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## Conclusion

The Tenant's application is dismissed without leave to reapply. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 19, 2009.

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Dispute Resolution Officer