



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD & FF

### Introduction

This hearing dealt with the tenant's application seeking compensation related to repair work that the tenant paid for out of pocket without the prior written consent of the landlord. The tenant alleges that the landlord failed to repair and maintain a leaking faucet in a reasonable timeframe and he had the right to proceed with the work and claim the cost against the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

### Issues(s) to be Decided

Does the tenant have the right under section 32 of the *Act* to recover the cost of hiring a plumber to fix a leaking faucet from the landlord?

### Background and Evidence

This tenancy began May 1, 2005 for the monthly rent of \$700.00 and a security deposit of \$325.00. In February 2010 the tenant showed the landlord a minor leak in his kitchen faucet. The landlord indicated that he would have it fixed.

In May 2010 the landlord arranged to have the furnace maintenance completed and the tenant reminded him of the leaking faucet in the kitchen. The landlord indicated that he would have this repair addressed.

The tenant stated that the maintenance on the furnace was completed but nothing was done to fix the leaking faucet. The tenant did not discuss the issue again with the landlord until August 23, 2010 when the landlord called to gather more post dated cheques for the monthly rent.

The tenant told the landlord about the leaking faucet and that it has been about six months and it still was not fixed. The landlord stated that he would arrange for it to be fixed.

The tenant wrote the landlord a letter on August 31, 2010 complaining that it has been approximately 10 days since the last discussion about the leaking faucet and the tenant has still not heard anything from the landlord. The tenant states in the letter that he will hire his own plumber to complete the work and would deduct the cost from his next month's rent. The landlord called the tenant that same night explaining that he has had some serious health problems over the last six months and this was why the landlord had not yet arranged to have the work completed. The landlord told the tenant not to hire a plumber as the landlord could not verify if the work would be good and that he would arrange to have the faucet fixed. In the hearing the landlord stated that he was unaware that the minor leak had become such an issue with the tenant and that it had not been a priority given his poor. He stated that after this conversation he understood the tenant's frustration and pushed his plumber to make arrangements as soon as possible to have the repair addressed.

The plumber did call the tenant within a couple of days and made an appointment for September 7, 2010; however, the plumber did not keep the appointment. The tenant stated that he could no longer wait or rely on the landlord and he proceeded to hire his own plumber who changed a worn washer in the faucet at the cost of \$100.00. The tenant seeks reimbursement of the \$100.00 plus recovery of the \$50.00 filing fee.

The landlord submits that the tenant's application should be denied. He submits that he had a plumber arranged who would have replaced the whole faucet for the sum of approximately \$80.00; but more importantly, the tenant had no legal authority to proceed to have this work completed on the landlord's property without the landlords consent. The landlord has offered the tenant a rent reduction of \$30.00 in October 2010 to find a middle ground to the dispute.

The tenant acknowledges the \$30.00 rent reduction; however, requests the full compensation for the cost of having the repair completed and recovery of the filing fee.

### Analysis

I find that the tenant's application cannot succeed and I dismiss the tenant's application. Although I can understand the tenant's frustration that this minor repair took many months to fix, I find that it was largely due to unfortunate circumstances. The landlord suffered significant health problems between May and August 2010 and understandably

forgot about the tenant's request to have the leaky faucet repaired. The tenant did not follow up with the landlord until the conversation on August 23, 2010. So, although the issue was a growing concern and frustration in the tenant's mind, it was only new issue from the landlord's perspective. I accept that the landlord attempted to arrange a plumber to address the tenant's written concern and clearly stated to the tenant that he was not to hire his own plumber.

Unfortunately, the plumber did not appear on the scheduled date and it was a last straw for the tenant. However, his correct action at this point would have been to file an application for Dispute Resolution seeking an Order pursuant to section 32 of the *Act* to have the repair completed.

It is only under emergency situations that a tenant may pay for emergency repairs and then recover the cost from the landlord. Section 33 sets out specially what are considered emergency repairs, and even in those circumstances a tenant must still only proceed after at least 2 attempts to contact the landlord and after giving the landlord a reasonable amount of time to complete the repairs.

I do not find that a leaking kitchen faucet meets the definition of an emergency repair pursuant to section 33 of the *Act*. I deny the tenant's request to recover the \$100.00 plumbing bill from the landlord and I deny the tenant's request to recover the \$50.00 filing fee paid for this application.

### Conclusion

I have dismissed the tenant's application having determined that there are no grounds pursuant to section 32 of the *Act* to order that the tenant be reimbursed for hiring a plumber without the prior written consent of the landlord.

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 28, 2010.

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Dispute Resolution Officer