



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage or loss - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on May 1, 2010 and ended April 31, 2011. Rent in the amount of \$3,660.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$1,830.00. The security deposit was returned to the Tenant at the end of the tenancy.

The Landlord states that the Tenants caused damage to the unit through the improper use of the portable dishwasher which caused a leak from the kitchen faucet and sink. The Landlord states that the faucet was new in April 2009 when renovations were completed on the unit and that there were no problems with the faucet during the previous year long tenancy following these renovations. The Landlord states that the plumber determined that the leak was caused by pulling the kitchen sink faucet too hard while connecting the dishwasher, damaging the pipe inside the faucet. The Landlord states that the leak was not reported to the Landlord until water broke through the upper kitchen to the basement ceiling and wall. The Landlord states that the Tenants should have seen the leak from the faucet pipe as the cabinet door covering the area under the sink was not present. The Landlord states that insurance did not cover the damage as it was determined by the insurer that the leak occurred over a length of time. The Landlord provided a letter from the insurer that states that the issue with the sink/faucet has been ongoing and that the inspection report and pictures support the ongoing nature of the issue. The Landlord provided evidence of the Tenants behaviour in

relation to noise, a parties and general messiness and states that this is evidence of the lack of maturity of the Tenant which shows they were not responsible enough to notify the Landlord of a leak before the water broke through the ceiling.

The Tenant states that there were multiple plumbing issues with the unit during the tenancy and that these issues were immediately reported to the Landlord. The Tenant states that these plumbing issues were related to improper maintenance and negligence by the Landlord and that the problem with the faucet is similarly a result of the Landlord's improper maintenance and/or negligence. The Tenant states that they reported the leak into the ceiling as soon as it was noticed and that the Landlord took a month to repair the damage. The Tenant states that they did not notice any problem with the faucet, sink or leaking prior to this. The Tenant states that at the onset of the tenancy, the faucet appeared as it does in the picture taken after the leak was discovered. The Tenant states that they had no problems with attaching the portable dishwasher to the faucet, that the faucet was old and that any damage to the faucet that may have caused the leak was from normal wear and tear. The Tenant states that the plumber never observed the Tenant's use of the faucet and dishwasher and that the Landlord cannot therefore say that the Tenant used the faucet and dishwasher improperly.

### Analysis

In a claim for damages or loss, the party making the claim has the onus of proving on a balance of probabilities, inter alia, that the other party caused the damage or loss. There is no dispute that the damage to the faucet caused the leak that eventually caused the damage to the ceiling and wall. There is no dispute that the faucet was damaged by the manner of connecting the dishwasher. The Parties disputed the person or persons responsible for the damage to the faucet. The Landlord claims that the Tenant caused the damage to the faucet by the way the Tenant connected the dishwasher to the faucet. The Tenant claims that the faucet was in the same state when they moved in as it was when the damage was investigated and that no inspection was done to assess the Tenant manner of connecting the dishwasher. Given the lack of evidence that the faucet was damaged during the Tenant's tenancy, I find that the Landlord has not proven on a balance of probabilities that the faucet was damaged by the Tenant.

The Landlord claims that the Tenant failed to report the leak when it occurred and that the Tenants should have noticed the leak given the missing cupboard. The Landlord claims that had the Tenant notified the Landlord of the leak, the damage to the ceiling and walls would not have occurred. The Tenant deny noticing a leak to report and state

that had they noticed the leak they would have reported it to the landlord as they did with other plumbing problems that arose during the tenancy. I accept that the Tenant would have reported a leak had they known about it and as the Landlord could only provide evidence that the leak must have occurred over a long period of time, I find that the Landlord has not proven on a balance of probabilities that the leak started during the Tenant's tenancy. Accordingly, I dismiss the application. As the Landlord's application is dismissed, I make no award for recovery of the filing fee.

Conclusion

The Landlord's application is dismissed. 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: August 08, 2011.

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Residential Tenancy Branch