

## Freezing Pipes, Landlord-Tenant Issues

Winter time is here in Oregon and that means it's time to break out the eggnog, curl up on the couch, pretend to listen to your uncle Larry's stories about his parakeet Geoffrey, and gently doze off until July. Unfortunately, if you do all that and live in a rental property, there's a good chance your pipes might freeze sometime during January and your red-faced landlord will come angrily interrupt your hibernation. So what happens when you're a renter and the pipes freeze at your place? Who pays to fix the pipes? Who pays if there's other damage to the property caused by the frozen pipes? The law is here with answers for your questions, but you have to read on to find out what they are.

At the most fundamental level, the law requires that landlords provide their tenants with housing in a habitable condition. This means that the dwelling must have effective waterproofing and weather protection for the roof and exterior walls, plumbing facilities in good working order, and hot and cold water (there are other things that are necessary to make a dwelling habitable as well; for more information check with an attorney). (90.320) The tenant has a related set of obligations that include using all parts of the premises in a reasonable manner, keeping the premises free of debris and infestation to the extent the premises permit, and most importantly in this instance: to use electrical, plumbing, and ventilation facilities in a reasonable manner, and to neither deliberately nor negligently damage any part of the premises. (90.325)

So what do all these duties mean in the case of frozen pipes? The answer depends on the circumstances. For tenants, a prolonged cold spell including freezing temperatures means that using the plumbing facilities in a reasonable manner probably requires taking precautions against freezing pipes. If a tenant just ignores the possibility that the pipes might freeze, it's possible a court could decide that course of action was negligent. If that turns out to be the case, the tenant could be on the hook for the damage that results and the landlord can even evict the tenant unless she repairs the damages at her own expense. (90.392)

If a tenant takes reasonable measures to prevent freezing pipes, but they still end up freezing, or if they freeze unexpectedly, the tenant should report the problem to the landlord as soon as they discover it (no running water or a flooded basement are clues there might be a problem with the plumbing). Once the tenant gives written notice to the landlord that plumbing repairs are needed, the landlord will have 7 days in which to fix the problem. If the landlord fails to make the repairs, a tenant may pay for the repairs herself and deduct the cost from her rent payment, recover damages from the landlord for the diminution in rental value, obtain substitute housing until the landlord makes the repairs, or even terminate the rental agreement depending on the situation. (90.360, 90.365)

So what's the bottom line for renters worried about freezing pipes? The best thing to do is to talk to your landlord about potential problem areas in the house and whether pipe insulation should be installed in those areas. Also, make sure to drain and cover any exposed outside plumbing lines. If a cold spell catches you in a pinch, turn your tap water on so that it runs slowly—it might mean a higher water bill, but it's worth it to prevent the expense and trouble of freezing pipes.

So pour uncle Larry a cup of that eggnog, put on some warm socks, and start enjoying the peace of mind that comes with knowing how to keep your pipes (and your landlord) happy when the cold weather comes.

For more information about Oregon landlord-tenant law, check out:

<http://www.osbar.org/public/legalinfo/tenant.html>

and

<http://www.leg.state.or.us/ors/090.html>

For information about what to do to keep your pipes safe, go to:

[http://www.weather.com/activities/homeandgarden/home/hometips/severeweather/pipefreeze\\_prevent.html](http://www.weather.com/activities/homeandgarden/home/hometips/severeweather/pipefreeze_prevent.html)