

## Torts Question

Tenant lives in Landlord's apartment building. The furnace in the building was inoperable during three periods last winter, causing the loss of heat and hot water. On each of those occasions, Landlord made temporary repairs.

On March 25, the furnace again broke down. Landlord was promptly notified of the problem and he ordered the parts needed to fix the furnace on March 26, but they did not arrive until April 6, at which time Landlord fixed the furnace. Between March 25 and April 5, there was no heat or hot water in the building.

In order to bathe from March 25 through April 5, Tenant heated a large pot of water on the stove. After the water boiled, Tenant transferred the water to the bathtub, mixed in cold water, and then used the water to bathe.

On April 3, Nephew, Tenant's eight-year-old nephew, arrived for a visit. On April 4, Tenant was carrying a pot of boiling water down the hall to the bathroom when Nephew, who was chasing a ball out of a bedroom that opened into the hall, collided with Tenant. As a result of the collision, the hot water spilled on Nephew, seriously burning him. Nephew did not look or call out before running into the hall.

A state statute provides that "every apartment building . . . and every part thereof shall be kept in good repair. The owner shall be responsible for compliance . . . . A violation shall be punishable by a fine not exceeding \$500."

Nephew, by his guardian, sued Tenant and Landlord for damages. At trial, both Tenant and Landlord argued that Nephew's negligence was the sole cause of the accident.

Based on these facts, may the jury properly award Nephew damages for his personal injury:

1. From Tenant? Explain.
2. From Landlord? Explain.