

Residential Tenancies Tribunal

Application 2024-0305-NL

Decision 24-0305-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:01 p.m. on 14-May-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach her by telephone at the start of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as she has been properly served. The landlord submitted an affidavit with his application stating that he had served the tenant with the notice of hearing electronically by email to: [REDACTED] on 15-April-2024 (LL#1). The landlord also provided proof of email address and proof of sent email (LL#2). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.
5. There was a written month-to-month rental agreement which commenced on 23-January-2021. The tenant vacated the unit on 23-January-2024. Rent was \$525.00 per month, due on the 1st of each month. A security deposit was never paid.
6. The landlord amended the application to delete *validity of termination notice determined* as the respondent has vacated, to decrease *utilities paid* from \$416.08 as per application to \$350.61 to reflect a daily rate up to 23-January-2024 when the tenancy ended and to include hearing expenses.

Issues before the Tribunal

7. The landlord is seeking:
 - a. Rent & late fees paid \$1520.94.
 - b. Utilities \$350.61
 - c. Hearing expenses \$154.04

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security deposit and Section 15: Fee for failure to pay rent. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*; Section 2-4: Deposits, Payments and fees and 12-1: Costs.

Issue # 1: Rent & Late Fees Paid \$1520.94

Relevant Submission

10. The landlord testified that rent and late fees are outstanding in the amount of \$1520.94 for the period of 1-November-2023 to 23-January-2024 when the tenancy ended. The landlord submitted a copy of the rental ledger to support the claim. See copy of rental ledger below:

20/10/2023	-539.00	0.00
01/11/2023	525.00	525.00
01/12/2023	525.00	1,050.00
11/12/2023	75.00	1,125.00
02/01/2024	395.94	1,520.94
 Total [REDACTED]	 1,520.94	 1,520.94
 Total [REDACTED]	 1,520.94	 1,520.94
 TOTAL	 1,520.94	 1,520.94

Analysis

11. Section 15 of the *Residential Tenancies Act, 2018* states:

Fee for failure to pay rent

15. (1) Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.

12. Residential Tenancies Policy 2-4; Deposits, Payments and Fees states;

Late Fees:

When rent is not paid on time, a landlord may charge a late fee of \$5.00 for the first day rent is in arrears and \$2.00 for each additional day that the rent remains in arrears in any consecutive number of rental periods up to a maximum of \$75.00.

13. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises. I find that the tenant is responsible for outstanding rent and late fees for the period of 1-November-2023 to 23-January-2024 in the amount of \$1520.94.

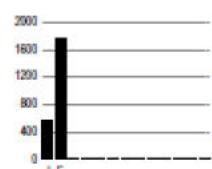
Decision

14. The landlord's claim for rent and late fees succeeds in the amount of \$1520.94.

Issue # 2: Utilities \$350.61

Relevant Submission

15. The landlord testified that the tenant had the electricity disconnected and switched back into his name effective 1-December-2023 and he is seeking utilities to be paid in the amount of \$350.61 for the period of 1-December-2023 to 23-January-2024 when the tenancy ended. The landlord prorated the utility bill to get a daily rate for the month of January ($\$280.98 / 30 \text{ days} = \$9.37 \text{ per day} \times 23 \text{ days} = \215.51). The landlord submitted a copy of the utility bill to support the claim (LL#4). See copy of utility bill below:

NEWFOUNDLAND POWER A FORTIS COMPANY PO Box 8810, St. John's, NL A1B 3P6 Power Outages & Emergencies: 1-800-474-8711 Customer Relations: 1-800-653-2822 Fax: 737-2900 Email: customerservice@newfoundlandpower.com Visit us online at newfoundlandpower.com	Rate: Domestic Service Your meter was read on: February 8 Next meter reading on or about: March 8	February 8, 2024 Billing Date								
Previous Balance Payments to February 8 Forfeited Discount adjustment Previous balance owing	133.33 0.00CR 1.77*	\$135.10								
This Month's Electric Charges Basic Customer Charge Energy Charge: 1,752 kWh @ \$0.13256 /kWh Discount: -1.5% Subtotal electric charges Harmonized Sales Tax: 15% (10386 4831 RT0001) Total Charges	15.80 232.25 3.72CR 244.33 36.65 \$280.98									
Total Amount Due on or before February 22, 2024	\$416.08									
<p>*These charges are HST exempt. To avoid interest, please pay by March 8, 2024. Interest is charged on overdue balances of \$50.00 or more. The annual rate of interest is the sum of Scotiabank's prime rate in effect at the end of the previous month plus five percent.</p>										
Meter Reading Information Meter number: [REDACTED]										
<table><thead><tr><th>Date</th><th>Reading</th></tr></thead><tbody><tr><td>Feb 8</td><td>73032</td></tr><tr><td>Jan 10</td><td>71280</td></tr><tr><td>29 Days</td><td>1752 kWh</td></tr></tbody></table>			Date	Reading	Feb 8	73032	Jan 10	71280	29 Days	1752 kWh
Date	Reading									
Feb 8	73032									
Jan 10	71280									
29 Days	1752 kWh									
Your Past Energy Usage (kWh) 										
<p>Please keep this portion for your records. Please return this portion with your payment.</p>										
Account Number [REDACTED]	Amount Due [REDACTED] \$416.08									
Discount Date [REDACTED] February 22, 2024	Amount Due After Discount Date [REDACTED] \$419.80									

Analysis

16. The landlord was able to show the balance owing for outstanding utilities and he was also able to show that the utilities account was switched back into his name by NL Power effective 1-December-2023. The tenant occupied the unit up to 23-January-2024 and as such is responsible for the utilities as charged by NL Power. I find that the tenant shall reimburse the landlord for the utilities in the amount of \$350.61 as sought by the landlord.

Decision

17. The landlord's claim for Utilities paid succeeds in the amount of \$350.61.

Issue # 3: Hearing expenses \$154.04

18. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and also incurred legal fees to have the affidavit notarized in the amount of \$28.75 of which he is seeking reimbursement for 50% of the fee (LL#3). The landlord is also seeking payment for his time to prepare for the hearing in the amount of \$106.20 for 4.6 hours at a rate of \$23.00 per hour.

Analysis

19. In accordance with Section 12-1 of the *Residential Tenancies Policy Manual*, claimable costs may include the filing fee and any cost incurred in serving the respondent and as such I find that the tenant is responsible to reimburse the landlord for those costs in the amount of \$34.38 as sought by the landlord.

20. With regards to the additional hearing costs claimed in the amount of \$106.20 for 4.6 hours of the landlord's time to prepare for the hearing, I find that the landlord did not provide documentation to support this claim and as such, the tenant is not responsible for this cost.

21. As the landlord's claim has been successful, the tenant shall pay \$34.38.

Decision

22. The landlord's claim for hearing expenses succeeds in the amount of \$34.38.

Summary of Decision

23. The tenant shall pay the landlord \$1905.93 as follows:

Rent paid	\$1520.94
Utilities paid	350.61
Hearing expenses	34.38
Total	\$1905.93

May 24, 2024

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office