

Residential Tenancies Tribunal

Decision 20-0231-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:06 am on 17 August 2020 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not participate.

Issues before the Tribunal

3. The landlord is seeking order for a payment of utilities in the amount of \$89.09.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is rule 29 of the *Rules of the Supreme Court, 1986*.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach him by telephone. 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 the hearing 10 clear days prior to the hearing date and, where a respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as he has

been properly served. The landlord testified that he had served the tenant with notice of the hearing, by text-message, on 20 July 2020 and a copy of that text-message, along with other text-message exchanges with the tenant, was submitted at the hearing. He has had 27 days to provide a response. 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 his absence.

Issue 1: Utilities - \$89.09

Relevant Submissions

7. The landlord stated that he had entered into a verbal rental agreement with the tenant in August 2019. The agreed monthly rent was set at \$800.00 and the landlord testified that the tenant had paid a security deposit of \$400.00.
8. The landlord stated that the tenancy terminated at the end of April 2020, though the tenant moved out sometime prior to 30 April 2020. The landlord testified that the tenant had paid \$400.00 in rent for April 2020 and that there was an agreement with him that he could retain the \$400.00 security deposit to cover the remaining rent that was owing for that month.
9. The landlord testified that the tenant was responsible for paying his own electrical utilities during his tenancy, but he complained that he cancelled his account at the beginning of April 2020. The landlord stated that the account was placed back into his name at the beginning of April 2020 and he was charged for all the electricity usage during that month.
10. On 30 April 2020, the landlord took a photograph of the electricity meter and sent to Newfoundland Power a copy of that photograph showing the meter reading on that date. A copy of that photograph was submitted with his application. He also submitted a copy of an e-mail he had received from Newfoundland Power in which they calculate that, based on that meter reading, the landlord had incurred \$89.09 in electricity charges for the month of April 2020.
11. The landlord is seeking an order for a payment of utilities in the amount of \$89.09.

Analysis

12. I accept the landlord's testimony and evidence in this matter and I agree with him that the tenant was responsible for the costs of the electricity usage at the unit for the month of April 2020.
13. Based on his evidence, I find that his claim for the costs of utilities succeeds in the amount of \$89.09.

Decision

14. The landlord's claim for the costs of utilities succeeds in the amount of \$89.09.

Issue 2: Hearing Expenses

15. The landlord paid a \$20.00 fee to file this application. As the landlord's claim has been successful, the tenant shall pay this hearing expense.

Summary of Decision

16. The landlord is entitled to the following:

- a) Utilities \$89.09
- b) Hearing Expenses \$20.00
- c) Total Owing to Landlord \$109.09

16 October 2020

Date

John R. Cook
Residential Tenancies Tribunal