

## Residential Tenancies Tribunal

Decision 20-0212-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 1:13 pm on 01 October 2020 via teleconference.
2. The respondent, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The applicant, [REDACTED], hereinafter referred to as “the tenant”, did not participate.

### Issues before the Tribunal

3. The tenant is seeking an order for a refund of the security deposit in the amount of \$300.00.
4. The landlord is seeking the following:
  - An order for a payment of utilities in the amount of \$280.32, and
  - Authorization to retain the security deposit.

### Legislation and Policy

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

## **Preliminary Matters**

7. The tenant was not present or represented at the hearing and I was unable to reach her 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 submitted an affidavit with her application stating that notice of the hearing was sent to the tenant, by e-mail, on 01 September 2020 and a copy of that e-mail was also submitted with her application. The e-mail address used by the landlord was the same as that provided by the tenant in her application. The tenant has had 29 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 her absence.

## **Issue 1: Utilities - \$280.32**

### **Relevant Submissions**

8. The landlord stated that she had entered into a monthly rental agreement with the tenant, commencing 01 March 2020. The agreed rent was set at \$750.00 per month and that rent included cable and Wi-Fi. The landlord stated that the tenant was responsible for paying for her own electricity utilities.
9. Just 2 weeks after she had moved in, the tenant terminated their agreement and the landlord stated that she received the keys back from the tenant on 31 March 2020.
10. The landlord testified that the tenant had cancelled her electricity account on 14 March 2020 and that after that date, the charges for the electricity at the rental unit were billed to her. With her application, the landlord submitted her bill from Newfoundland Power, from 16 June 2020, showing that she had a Debit Adjustment of \$280.32 and there is a note on that bill stating that this adjustment was a balance transfer from the tenant's account.
11. The landlord is seeking an order for a payment of utilities in the amount of \$280.32.

### **Analysis**

12. I accept the landlord's testimony in this matter and I find that the tenant had her electricity account cancelled on 14 March 2020, at which point the costs of the electricity consumed at the unit after that date were billed to the landlord.

13. The landlord's evidence shows that a previous balance was charged to her from the tenant's account in the amount of \$280.32 and I therefore find that the landlord is entitled to an award for that amount.

**Decision**

14. The landlord's claim for a payment of utilities succeeds in the amount of \$280.32.

**Issue 2: Hearing Expenses**

15. The landlord paid a fee of \$20.00 to file this application and she is claiming that amount as a hearing expense.

**Analysis and Decision**

16. Policy with this Section is that the successful applicant may only claim the filing fee as a hearing expense if the amount of the award that they had received is greater than the amount of the security deposit. As the landlord was awarded \$280.32 for utilities and as the security deposit was \$300.00, she cannot claim the filing fee.


**Issue 3: Security Deposit**

17. The landlord stated that the tenant had paid a security deposit of \$300.00 on 27 January 2020. As the landlord's claim for utilities has been successful, the deposit shall be disposed of as follows:

- a) Refund Security Deposit .....\$300.00
- b) LESS: Utilities ..... (\$280.32)
- c) Total Owing to Tenant.....\$19.68

15 January 2021

Date

  
John R. Cook  
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