

## Introduction

- [1] On May 2, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is seeking:

*To request an order directing my tenant pay outstanding rent.*

- [2] On July 27, 2023, a video conference hearing was held before a Residential Tenancy Officer (the "Officer"). Both the Tenant and the Landlord participated.

## Issue to be Decided

- i. Does the Tenant owe the Landlord rent?

## Summary of the Evidence

- [3] In November of 2022 the Tenant and the Landlord entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of a condominium unit in a condominium building. Rent was \$2,000.00 per month plus utilities. A security deposit of \$1,000.00 was paid. The Tenant vacated the Residential Property on May 29, 2023.

## Landlord's Evidence and Submissions

- [4] The Landlord stated the Tenant owes the Landlord \$919.62 in unpaid electricity bills. He stated the Tenant signed the rental agreement stating that the Tenant would pay for the cost of electricity for the Residential Property. The rental agreement stated the Landlord would provide the electricity bill to the Tenant and the Tenant was to pay the bill to the Landlord within seven days. The Landlord stated the Tenant did not ask to pay a fixed price for electricity before signing the rental agreement.
- [5] The Landlord stated after the Tenant was provided the first electric bill, the Tenant stated he was only going to pay \$100.00 per month for electricity. The Landlord stated he decided that he would deduct the amount owing on the electricity bills from the security deposit when the Tenant moved out. The Landlord stated he was not present when the Landlord's mother spoke to the Tenant regarding the cost of electricity at the Residential Property before the Tenant signed the rental agreement.
- [6] The Landlord stated when the Tenant moved out, the Tenant told the Landlord to keep the security deposit to pay for half of the last month's rent. The Tenant only paid \$1,100.00 in their final month. Because the Landlord had to use the security deposit as a part of the last month's rent, he was unable to deduct the outstanding electricity bills from the security deposit.

## Tenant's Evidence and Submissions

- [7] The Tenant stated when he was inquiring about the Residential Property, the Landlord's mother told him that electricity would be around \$100.00 per month. He stated before he signed the rental agreement he researched the cost of how much he should be paying for electricity in PEI and he found that it should be around \$135.00 per month.
- [8] The Tenant stated he made the decision to sign the rental agreement assuming he would be paying around \$100.00 per month for electricity. When he received his first bill, it was almost \$185.00, which is not what he was quoted. The Tenant sent messages to the Landlord's mother about the higher cost of the bill. The Landlord's mother replied that electricity costs may have increased and the Tenant's consumption may be higher.

- [9] The Tenant stated that any cost increase in electricity would not account for the higher bills and that his consumption was lower than the previous Tenant. The Tenant submitted documents into evidence showing that his electricity consumption was lower than the previous tenant.
- [10] The Tenant stated the messages from the Landlord's mother show that she did not deny that she told the Tenant that electricity would be around \$100.00 per month. Copies of the messages were submitted into evidence. The Tenant stated the issue is that he was quoted \$100.00 per month and that the Landlord's mother "knowingly" provided inaccurate information to him. The Tenant stated he paid the Landlord \$100.00 per month for electricity as quoted. The Tenant stated he told the Landlord to keep the security deposit to pay for part of the last month's rent, as he did not want the security deposit to be used for the outstanding electricity costs.

### Analysis

- [11] The Application is seeking an order directing the Tenant to pay outstanding rent to the Landlord. The Landlord stated the Tenant failed to pay \$919.62 in electricity bills. The Tenant stated the Landlord's mother told him that electricity would be about \$100.00 per month so the Tenant paid the Landlord \$100.00 per month for electricity as he was quoted.

- [12] Subsections 1.(n) and (q) of the *Act* state:

*(n) "rent" means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a rental unit, for the use of common areas and for services or facilities, but does not include*

*(i) a security deposit, or*

*(ii) a fee prescribed under clause 107(1)(j).*

*(q) "security deposit" means money or any property paid by or on behalf of a tenant to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant respecting the rental unit.*

- [13] As the security deposit had to be used by the Landlord to pay for part of the last month's rent, the Landlord was unable to make a claim against the security deposit to pay for the "*outstanding liability*" of the tenant. The Officer notes that the definition of "*rent*" in the *Act* includes money agreed to be paid for services, which would include electricity. Therefore, the Officer must decide if the Tenant owes outstanding rent to the Landlord.

- [14] The Tenant testified the Landlord's mother stated electricity would be "*around*" \$100.00 per month, so the Tenant chose to only pay \$100.00 per month. The Officer notes that there is nothing in the rental agreement, which was submitted into evidence, which states the Tenant only has to pay \$100.00 per month for electricity. Under the heading "*The following services and facilities are the responsibility of the Lessee*" it states:

*"Electricity – Bill will be provided by landlord, to be paid in 7 days."*

- [15] The Tenant testified that the Landlord's mother "*knowingly*" provided inaccurate information to the Tenant regarding the cost of electricity. However, the Landlord's mother did not testify at the hearing to contextualize the conversations that she had with the Tenant surrounding the cost of electricity. Furthermore, the Tenant did not provide any other independent evidence showing that the Landlord's mother "*knowingly*" provided him with inaccurate information or what she meant when she stated "*around \$100.00.*"

- [16] The Officer therefore finds that the Landlord has provided sufficient evidence, on a balance of probabilities, to establish that the Tenant has failed to pay rent to the Landlord in the amount of \$919.62.

### **Conclusion**

- [17] The Application is allowed.
- [18] The Tenant shall pay the Landlord the outstanding rent in the amount of \$919.62 on or before September 1, 2023.

### **IT IS THEREFORE ORDERED THAT**

- A. The Tenant shall pay the Landlord the outstanding rent in the amount of \$919.62 on or before September 1, 2023.

**DATED** at Charlottetown, Prince Edward Island, this 14th day of August, 2023.

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(sgd.) Mitchell King  
Mitchell King  
Residential Tenancy Office

### **NOTICE**

#### Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the "Commission") by serving a Notice of Appeal with the Commission and every party to this Order within **20** days of this Order. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

#### Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.