

INTRODUCTION

- [1] This decision determines two applications filed under the *Residential Tenancy Act* (or the “Act”) with the Residential Tenancy Office (the “Rental Office”).
- [2] The Subtenant seeks a monetary order for a return of paid electricity bills, contrary to the subletting agreement, in the total amount of \$779.56.
- [3] The Tenant seeks a monetary order for an unpaid electricity bill, in the total amount of \$256.56.

DISPOSITION

- [4] The evidence establishes that electricity was not an included service under the subletting agreement. The Subtenant’s claim is denied. The Subtenant must pay the Tenant \$256.56 by the timeline below.

BACKGROUND

- [5] The Unit is a single-room with shared services and facilities located in a three-bedroom and one-bathroom apartment (the “Residential Property”).
- [6] In November 2023, the Tenant entered into a written, fixed-term tenancy agreement with the Residential Property’s owner.
- [7] On March 6, 2024 the Subtenant and the Tenant entered into a written, fixed-term subletting agreement, which ended February 28, 2025. The parties agreed that there was a typographical error regarding the fixed-term end date. Rent was \$750.00 due on the first day of the month. The Subtenant paid a \$750.00 security deposit.
- [8] On February 27, 2025 the Subtenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Subtenant Application”) with the Rental Office seeking a monetary order for return of paid electricity bills.
- [9] On February 28, 2025 the Tenant filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Tenant Application”) with the Rental Office seeking a monetary order for an unpaid electricity bill.
- [10] Collectively, the Subtenant Application and the Tenant Application are referred to as the (“Applications”).
- [11] On February 28, 2025 the Subtenant vacated the Unit and the subletting agreement ended by mutual agreement. The parties agreed that the Tenant would keep the security deposit for February 2025’s rent.
- [12] On March 7, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for April 29, 2025, along with copies of the Applications.
- [13] On April 16, 2025 the Rental Office emailed the parties a 56-page evidence package.
- [14] On April 17, 2025 the Rental Office emailed the parties a 5-page supplementary evidence package.
- [15] On April 29, 2025 the Subtenant and the Tenant joined the hearing for determination of the Applications. The parties confirmed they received the evidence package and the supplementary evidence package and confirmed that all documents submitted to the Rental Office were included.

ISSUE

- A. Is electricity an included service under the subletting agreement? Which party must compensate the other for electricity?

ANALYSIS & FINDINGS

- [16] The evidence establishes that electricity was not an included service in the subletting agreement and that the Subtenant must pay the Tenant unpaid electricity, in the amount of \$256.56.

Subtenant's Evidence

- [17] The Subtenant's evidence is that she was aware at the beginning of the subtenancy that the advertisement for the Unit stated: "*Rent is \$750 + internet, electricity bill is extra and will be split.*" The Subtenant stated that she signed the subletting agreement, but did not notice that electricity was not mentioned in the subletting agreement.
- [18] Each month, throughout the subtenancy, the Tenant would email the Subtenant the electricity bill. The Subtenant would e-Transfer the Tenant a share of the electricity bill.
- [19] In February 2025 the Subtenant brought a concern to the Tenant that she was being asked to pay half of the electricity bill in February, yet four people occupied the Residential Property. The Subtenant stated that at this time she reviewed the subletting agreement and realized that electricity was not mentioned as an excluded service.
- [20] The Subtenant argues that electricity not being an excluded service in the subletting agreement means that she has been paying electricity when she was not required under the subletting agreement. The Subtenant is seeking the return of the electricity charges paid throughout the subtenancy, in the total amount of \$779.56.

Tenant's Evidence

- [21] The Tenant's evidence is that the Subtenant was always aware that electricity was not an included service in the subletting agreement. The Tenant stated that throughout the subtenancy the Subtenant paid her share of the electricity bill. The Tenant stated that only internet was included in the rent.
- [22] The Tenant stated that the subletting agreement stated in the Schedule "D" that *Rent/Misc* amounts would be sent to him. The Tenant stated that the miscellaneous costs would be toilette items or garbage bags which everyone would share or rotate purchasing these items.
- [23] The Tenant stated that another person occupies the Residential Property in another subletting agreement. The Tenant stated that the other person was away on vacation for the month of February. They paid their share of the rent, but was not expected to pay the electricity bill for that month. The Tenant stated that he would have extended that same offer to the Subtenant if she was going on vacation and not living in the Residential Property for a period of time. The Tenant stated that the fourth person was his mother who was on vacation, and staying at the Residential Property for a brief period. The Tenant stated that his mother primarily used his living space.
- [24] The Tenant stated that the Subtenant owes \$256.56, which was half of February's electricity bill.

Determination

- [25] I have reviewed the evidence and find that electricity was not an included service in the subletting agreement.

- [26] The parties both submitted copies of the subletting agreement, which was completed on the *Form 1 – Standard Form of Tenancy Agreement*. In the subletting agreement there is no mention of electricity. The only included services and facilities mentioned are the common areas and internet. The Schedule “D” in the subletting agreement also only mentions that “Rent/Misc” would be paid to the Tenant directly. The parties did not dispute that miscellaneous meant everyday items.
- [27] The evidence further establishes that the Subtenant was aware of the advertisement for the Unit, which explicitly stated that electricity would be split. The Subtenant moved into the Unit and from March 2024 to January 2025 and she has paid her share of the electricity bill.
- [28] Subsections 30(6) and (8) of the *Act* state:

Where a tenant has sublet a rental unit to another person

- (a) *the tenant remains entitled to the benefits and is liable to the landlord for the breaches of the tenant’s obligations under the tenancy agreement or this Act during the subtenancy; and*
- (b) *the subtenant is entitled to the benefits and is liable to the tenant for the breaches of the subtenant’s obligations under the subletting agreement or this Act during the subtenancy.*

A tenant

- (a) *shall not charge a subtenant more rent than is payable under the tenancy agreement; and*
 - (b) *where the tenant and the subtenant occupy the rental unit, shall not charge the subtenant more rent than the amount represented by the rent payable under the tenancy agreement, either*
 - (i) *divided by the number of tenants during the subtenancy, or*
 - (ii) *apportioned among the tenants in a manner agreed to by them.*
- [29] In Order LR24-72 the Island Regulatory and Appeals Commission (the “Commission”) found that in certain circumstances a tenant could charge a subtenant higher rent than the tenant paid under their tenancy agreement with the owner. In this case the Commission found that the tenant provided the subtenants with additional services and facilities, including furnishings, compared to the tenant’s tenancy agreement with the owner. The Commission ordered the subtenants to pay rent to the tenant.
- [30] I note that clause 30(8)(b) does not require a tenant to divide the tenancy agreement’s rent equally amongst all the occupants. This is only an option under clause 30(8)(b)(i). A tenant can also apportion the tenancy agreement rent in a manner agreed to by the tenant and the subtenants.
- [31] I find that the evidence establishes that electricity was not an included service in the subletting agreement. The parties agreed that they would split the electricity bill, which the Subtenant did throughout the subtenancy.
- [32] The Subtenant’s concern about the number of occupants was a fair concern brought to the Tenant’s attention. I find that it would not be expected for a guest to have to pay a share of the electricity costs. Further, the other occupant or subtenant was not at the Residential Property in February. I accept the Tenant’s evidence that it was reasonable not to charge this other occupant or subtenant and that such an arrangement would have been offered to the Subtenant in a similar situation.
- [33] Therefore, the evidence does not establish that electricity was an included service and the Subtenant Application is denied.

- [34] I find that the Subtenant must pay their share of February's electricity bill, in the amount of \$256.56. The Tenant Application is allowed.
- [35] I note that in Order LR24-72 the Commission reviewed the definition of "landlord" in the *Act*. The Commission observed that a tenant who sublets and also occupies a rental unit is not a "landlord" within the meaning of the *Act*.
- [36] Subsection 14(9) of the *Act* only requires a "landlord" to credit security deposit interest to a tenant. As the Tenant is not a "landlord," the Subtenant has not been credited with security deposit interest in this decision.

IT IS THEREFORE ORDERED THAT

1. The Subtenant must pay the Tenant \$256.56 by May 30, 2025.

DATED at Charlottetown, Prince Edward Island, this 30th day of April, 2025.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

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.