

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").
- [2] The Tenant seeks a determination that the Landlord cannot charge the Tenant a \$25.00 parking fee.

DISPOSITION

- [3] I find that the Landlord cannot charge the Tenant a parking fee because this service or facility is included in the Tenant's rent and it is reasonably related to the Tenant's use and enjoyment of the Unit as living accommodation.

BACKGROUND

- [4] The Unit is a one-bedroom, one-bathroom apartment located in a twelve-unit building (the "Residential Property").
- [5] The Tenant and the former owner of the Residential Property (the "Former Landlord") entered into a first written, fixed-term rental agreement for the Unit from April 1, 2023 to March 31, 2024 (the "Rental Agreement"). The Tenant paid a security deposit of \$950.00. Rent in the amount of \$950.00 was due on the first day of the month.
- [6] The Landlord purchased the Residential Property in September of 2023 and the Rental Agreement continued. At the end of the fixed-term the agreement continued on a month-to-month basis.
- [7] The Landlord and the Tenant entered into a second written, fixed-term tenancy agreement for the Unit from April 1, 2025 to March 31, 2026 (the "Tenancy Agreement"). Rent in the amount of \$1,001.01 is due on the first day of the month.
- [8] On May 26, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine* with the Rental Office seeking a determination that the Landlord could not charge the Tenant parking fees and a return of any parking fees paid to the Landlord (the "Application").
- [9] On June 6, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for July 3, 2025 along with a copy of the Application.
- [10] On June 20, 2025 the Rental Office emailed the parties an 85-page evidence package (the "Evidence Package").
- [11] On July 3, 2025 the Tenant and the Landlord's representative (the "Representative") joined the teleconference hearing. The parties confirmed receipt of the Evidence Package and confirmed that all documents submitted to the Rental Office were included.
- [12] At the hearing the parties advised that the Tenant had not paid any parking fees to the Landlord. As a result, the Tenant's return of parking fees claim has resolved.

ISSUE

- A. Can the Landlord charge the Tenant a \$25.00 parking fee?

ANALYSIS

[13] For the reasons below, I find that the Landlord cannot charge the Tenant a \$25.00 parking fee.

[14] The evidence establishes that the Rental Agreement's rent included a parking spot.

[15] Section 21 of the *Act* states:

- (1) *A landlord shall not terminate or restrict a service or facility if*
 - (a) the service or facility is reasonably related to the tenant's use and enjoyment of the rental unit as living accommodation; or*
 - (b) the service or facility is a term of the tenancy agreement.*
- (2) *A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord*
 - (a) gives one month's written notice, in the approved form, of the termination or restriction; and*
 - (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.*

[16] Section 21 is a standard tenancy agreement term in Part 2, Division 4 of the *Act*. Any change or removal of section 21 would be void and of no effect (subsection 10(3)).

[17] Based upon the evidence presented, I am satisfied that the Tenant's parking spot is a service or facility included in the rent that is reasonably related to the Tenant's use and enjoyment of the Unit as living accommodations.

[18] As a result, the Landlord cannot terminate or restrict the Tenant's use of the parking spot under subsection 21(1). The Landlord cannot charge a separate fee for the Tenant's parking spot because this service or facility is already included in the Tenant's rent.

[19] It does not appear that the Landlord intended to remove parking as an included service. Instead, it appears that the Landlord did not know that parking was an included service in the Rental Agreement when the Tenancy Agreement was prepared.

[20] The issue arose because the Landlord did not receive a copy of the Rental Agreement from the Former Landlord stating the included services. The Landlord only obtained a copy of the Rental Agreement when the Landlord received the Evidence Package.

IT IS THEREFORE ORDERED THAT

1. The Landlord cannot charge the Tenant a separate fee for the Tenant's parking spot.

DATED at Charlottetown, Prince Edward Island, this 4th day of July, 2025.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.