

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 made a financial claim against the Landlords regarding parking fees that the Tenant has been charged since June 1, 2026.

BACKGROUND

- [3] The Unit is a two-bedroom, one-bathroom apartment in a 23-unit building that is located near other buildings that the Landlords also owns (the "Residential Property").
- [4] The Landlords and the Tenant entered into a first written, fixed-term tenancy agreement from April 7, 2024 to April 6, 2025. A security deposit of \$1,225.00 was paid on April 5, 2024. Rent in the amount of \$1,225.00 was due on the first day of the month.
- [5] The Landlords and the Tenant entered into a second written, fixed-term tenancy agreement from May 1, 2025 to April 30, 2026. Rent in the amount of \$1,253.18 is due on the first day of the month.
- [6] On May 5, 2026 the Tenant filed a first *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office seeking compensation from the Landlords for an unlawful rent increase. This matter has resolved.
- [7] On May 27, 2026 the Tenant filed a second *Form 2(A) Tenant Application to Determine Dispute* (the "Application") with the Rental Office seeking compensation for parking fees that the Landlords were implementing for use of a specific parking spot (the "Parking Spot").
- [8] On July 2, 2026 the Rental Office sent the parties notice of a tele-hearing scheduled for August 11, 2026.
- [9] On July 22, 2026 the Rental Office sent the parties a 151-page PDF evidence package.
- [10] On August 11, 2026 the Tenant and the Landlords' representative (the "Representative") participated in the tele-hearing. The parties confirmed that they received the evidence package and that they were not aware of anything missing that was previously submitted to the Rental Office for this dispute. The Landlords and the Tenant are parties to a separate additional rent increase proceeding.

DISPOSITION

- [11] I find that the Parking Spot is already an included service or facility in the Tenant's rent. The Landlords must not charge the Tenant a separate fee regarding the Parking Spot.
- [12] The Landlords must pay the Tenant \$75.00 by the timeline below.

ISSUE

- A. Is the Parking Spot an included service or facility in the Tenant's rent?

ANALYSIS

- [13] The terms “rent”, “service or facility”, and “tenancy agreement” are defined in section 1 of the Act as follows:

(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);*

(s) “service or facility” means any service or facility that is provided or agreed to be provided by the landlord to the tenant of a rental unit, including but not limited to

- (i) appliances and furnishings,*
- (ii) utilities and related services,*
- (iii) cleaning and maintenance services,*
- (iv) parking spaces and related facilities,*
- (v) cable or satellite television facilities,*
- (vi) internet facilities,*
- (vii) laundry facilities,*
- (viii) storage facilities,*
- (ix) elevator,*
- (x) common recreational facilities,*
- (xi) intercom systems,*
- (xii) garbage facilities and related services,*
- (xiii) heating facilities or services,*
- (xiv) housekeeping services, and*
- (xv) snow removal and related services;*

(w) “tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities;

- [14] I have reviewed the evidence of the parties and I find that the Parking Spot is already an included service or facility in the Tenant’s rent.
- [15] The Tenant’s direct testimony establishes that another representative of the Landlord (CM) was aware that the Tenant needed the Parking Spot, corresponded with the Tenant regarding the Parking Spot and informed the Tenant that there would not be a separate charge near the beginning of the tenancy.
- [16] I note that the Landlords did not arrange for CM to participate in the hearing as a witness for the Landlords.
- [17] The Tenant’s photographs show that the Parking Spot has yellow paint with the identical number as the Unit. This is unlikely to be a coincidence.
- [18] I note that the Representative does not have direct evidence regarding the formation of the tenancy agreement because he did not start working for the Landlords until early 2025, about a year after the Tenant moved into the Unit.
- [19] The Tenant lived in the Unit for over two years without having to pay a separate fee for the Parking Spot. Further, the Landlords have been aware that the Tenant has used the Parking Spot since early April of 2024 through the Tenant’s communications with a representative of the Landlords.

- [20] The Representative argued that parking is not stated to be an included service in the written tenancy agreement. However, based upon the evidence presented, I find that the tenancy agreement is inaccurate regarding the Parking Spot because it does not reflect the actual agreement between the parties. The tenancy agreement should have listed the Parking Spot as a service or facility included in the Tenant's rent.
- [21] The Representative argued that the Tenant agreed to the monthly fees under the Landlords' "Parking Opportunity" agreement from June 1, 2026 onwards.
- [22] However, the Tenant is protected against these charges under section 5 of the Act, which states:
- Except as specifically provided in this Act, a waiver or release by a tenant of the rights, benefits or protections under this Act is void and of no effect.*
- [23] Any Tenant waiver or release requiring the Tenant to pay for the Parking Spot is void and of no effect.
- [24] The parties agree that the Tenant has paid the Landlords \$25.00 per month for June, July and August of 2026, in the total amount of \$75.00. I find that the Landlords must return these fees to the Tenant by the timeline below.
- [25] The parties raised issues regarding guest parking. However, I find that these issues are too far beyond the scope of the Application for determination in this decision.

IT IS THEREFORE ORDERED THAT

1. The Parking Spot is already an included service or facility in the Tenant's rent. The Landlords must not charge the Tenant a separate fee regarding the Parking Spot.
2. The Landlords must pay the Tenant \$75.00 by September 18, 2026.

DATED at Charlottetown, Prince Edward Island, this 18th day of August, 2026.

(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.