



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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DECISION

Issue Code: ARI-C

Introduction

The landlord has made eligible capital expenditures and is seeking an additional rent increase pursuant to subsections 43(1)(b) and 43(3) of the *Residential Tenancy Act* (the “Act”) and section 23.1 of the *Residential Tenancy Regulation* (the “Regulation”).

A hearing was convened, by way of a teleconference, on May 30, 2022 at 11:00 AM in respect of the landlord's application. Attending the hearing was the landlord's agent. None of the tenants attended the hearing, which ended at 11:11 AM.

The landlord's agent testified, under oath, that all the tenants had been served at their respective addresses for service with the Notice of Dispute Resolution Proceeding and the landlord's evidence. All tenants had acknowledged service with the landlord's agent. (It should be noted that the tenant in rental unit #12—initials C.E.—has since vacated the rental unit and as such is no longer a respondent in this application.)

Issue

Is the landlord entitled to the additional rent increase being requested?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the issue of this application, and to explain the decision, is reproduced below.

The landlord's agent (hereafter the “landlord”) gave the following oral and documentary evidence:

1. this is the landlord's first application for a rent increase under subsection 23.1(1) of the Regulation;

2. the capital expenditure was in the amount of \$32,550.00;
3. the capital expenditure was incurred for the replacement of a major component of the residential property: the roof;
4. the capital expenditure was made in November 2021, and thus incurred within the 18-month period preceding the date on which the landlord made its application (the application was made on January 26, 2022); and,
5. the capital expenditure is not expected to be incurred again for at least 5 years. In this case, the landlord testified that because it is a roof, it is expected to last at least 20 years.

Submitted into documentary evidence were proof of the capital expenditures, proof of installations and replacement, and proof that the work was completed.

Analysis

[Subsection 43\(1\)\(b\)](#) of the Act states that a landlord may impose a rent increase only up to the amount “ordered by the director on an application under subsection (3) of the Act.

Subsection 43(3) of the Act, to which the above section refers, states that

In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

[Section 23.1](#) of the Regulation sets out the criteria by which an application for a rent increase is considered. This section is reproduced in full, for the benefit of the reader:

(1) Subject to subsection (2), a landlord may apply under section 43 (3) *[additional rent increase]* of the Act for an additional rent increase in respect of a rental unit that is a specified dwelling unit for eligible capital expenditures incurred in the 18-month period preceding the date on which the landlord makes the application.

(2) If the landlord made a previous application for an additional rent increase under subsection (1) and the application was granted, whether in whole or in part, the landlord must not make a subsequent application in respect of the same rental unit for an additional rent increase for eligible capital expenditures until at least 18 months after the month in which the last application was made.

(3) If the landlord applies for an additional rent increase under this section, the landlord must make a single application to increase the rent for all rental units on which the landlord intends to impose the additional rent increase if approved.

(4) Subject to subsection (5), the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all of the following:

(a) the capital expenditures were incurred for one of the following:

- (i) the installation, repair or replacement of a major system or major component in order to maintain the residential property, of which the major system is a part or the major component is a component, in a state of repair that complies with the health, safety and housing standards required by law in accordance with section 32 (1) (a) [*landlord and tenant obligations to repair and maintain*] of the Act;
- (ii) the installation, repair or replacement of a major system or major component that has failed or is malfunctioning or inoperative or that is close to the end of its useful life;
- (iii) the installation, repair or replacement of a major system or major component that achieves one or more of the following:

(A) a reduction in energy use or greenhouse gas emissions;

(B) an improvement in the security of the residential property;

(b) the capital expenditures were incurred in the 18-month period preceding the date on which the landlord makes the application;

(c) the capital expenditures are not expected to be incurred again for at least 5 years.

(5) The director must not grant an application under this section for that portion of capital expenditures in respect of which a tenant establishes that the capital expenditures were incurred

(a) for repairs or replacement required because of inadequate repair or maintenance on the part of the landlord, or

(b) for which the landlord has been paid, or is entitled to be paid, from another source.

In this application, based on the undisputed oral and documentary evidence before me, it is my finding that (1) the capital expenditure was incurred for the replacement of a major component—that is, a roof—in order to maintain the residential property, (2) the capital expenditure was incurred in the 18-month period preceding the date on which the landlord made the application, and (3) the capital expenditure is not expected to be incurred again for at least five years. In the absence of any argument or submissions from the tenants, I need not consider subsection 23.1(5) of the Regulation.

Given the above, I am required to grant the landlord's application for the rent increase based on a capital expenditure in the amount of \$32,550.00, and it is so ordered pursuant to section 43(1)(b) of the Act.

The landlord is required to calculate and implement the appropriate rent increases pursuant to sections 23.2 and 23.3 of the Regulation for the specified dwelling units.

Conclusion

The application is hereby GRANTED.

A copy of this decision must be served by the landlord on each respondent tenant within 5 days of the landlord receiving a copy of this decision.

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal this decision is limited to grounds provided under section 79 of the Act or by way of an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: May 30, 2022

Residential Tenancy Branch