



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ARI-C

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") and the *Residential Tenancy Regulation* (the "Regulation") for an additional rent increase for capital expenditure pursuant to section 23.1 of the Regulation.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on September 7, 2022, she personally served the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing. A proof of service document signed by the tenant was provided in support of service.

Based on the above, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

### Issues to be Decided

Is the landlord entitled to impose an additional rent increase for capital expenditures?

### Background and Evidence

This tenancy began January 2004. The rental unit is a basement of a residential house. The house contains two dwelling units and the landlord resides in the upper unit.

The landlord testified that she has not applied for an additional rent increase for capital expenditure against the tenant prior to this application.

The landlord testified that she was seeking to impose an additional rent increase for a capital expenditure incurred to pay for the replacement of five windows in the basement unit. The landlord testified that one of the replaced windows was original 100 years old single pane window and the other four were 17 years old aluminum double pane windows. The frames of two of these four windows were damaged. The landlord replaced all the windows with triple glazed vinyl framed windows.

The landlord submitted an invoice as proof of the total capital expenditure amount of \$4189.50.

### Analysis

Sections 21.1, 23.1, and 23.2 of the Regulation set out the framework and calculation for determining if a landlord is entitled to impose an additional rent increase for capital expenditures incurred for the installation, repair or replacement of a major system or major component in order to maintain the residential property.

RTB Policy Guideline 37 provides examples of major systems and major components as defined under section 21.1:

Examples of major systems or major components include, but are not limited to, the foundation; load bearing elements such as walls, beams and columns; the roof; siding; entry doors; windows; primary flooring in common areas; pavement in parking facilities; electrical wiring; heating systems; plumbing and sanitary systems; security systems, including things like cameras or gates to prevent unauthorized entry; and elevators.

I find that the replacement of windows falls under a major component of the residential property. I find the capital expenditure was necessary as the previous windows were past their useful life.

I find the landlord has not been granted an additional rent increase against the rental unit within the last 18 months preceding this application; the capital expenditures were incurred in the 18-month period preceding the application date; and the capital expenditures are not expected to be incurred again for at least 5 years.

As per section 23.2 of the Regulation the amount of the additional rent increase that the landlord may impose for the eligible capital expenditures is determined by:

- (a) divide the amount of the eligible capital expenditures incurred by the number of specified dwelling units, and
- (b) divide the amount calculated under paragraph (a) by 120.

Section 23.1(1) of the Regulation defines a “specified dwelling unit” as follows:

- (a) a dwelling unit that is a building, or is located in a building, in which an installation was made, or repairs or a replacement was carried out, for which eligible capital expenditures were incurred, or
- (b) a dwelling unit that is affected by an installation made, or repairs or a replacement carried out, in or on a residential property in which the dwelling unit is located, for which eligible capital expenditures were incurred.

In the application, the landlord identifies only one specified dwelling unit being affected by the capital expenditure. I find this to be inaccurate as the landlord’s dwelling unit also needs to be included in the calculation. Therefore, I find that there are two specified dwelling units which should be subject to the eligible capital expenditure amount.

#### Allowable additional monthly rent increase

\$Amount of eligible capital expenditure / # of specified dwelling unit / 120  
(\$4189.50 ÷ 2 units ÷ 120) = \$17.46

The landlord is granted an additional monthly rent increase for capital expenditures of \$17.46. If this amount exceeds 3% of a tenant’s monthly rent, the landlord may not be permitted to impose a rent increase for the entire amount in a single year.

The parties may refer to RTB Policy Guideline 37, section 23.3 of the Regulation, section 42 of the Act (which requires that a landlord provide a tenant three months’ notice of a rent increase), and the additional rent increase calculator on the RTB website for further guidance regarding how this rent increase shall be imposed.

Conclusion

The landlord's application for an additional rent increase is granted in the amount of \$17.46. The landlord must impose this increase in accordance with the Act and the Regulation.

I order the landlord to serve the tenant(s) with a copy of this decision in accordance with section 88 of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 16, 2023

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Residential Tenancy Branch