Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

A matter regarding KEAPAR VENTURES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code ARI-C

Introduction

Landlord Keapar Ventures Ltd. applied for an additional rent increase for capital expenditures (expenditures), under section 43(3) of the Residential Tenancy Act (the Act) and 23.1 of the Residential Tenancy Regulation (the Regulation).

Landlord Keapar Ventures Ltd. was represented by agents JAM (the landlord) and PAM. Tenants JET (unit 101) and her counsel MAD, SAM (201), MAF (214) and GAN (114) also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing.

Preliminary Issue – Partial Withdrawal

The landlord withdrew the claim for replacing the lobby furniture in the amount of $380.79.

Section 62(4)(b) of the Act states an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the claim for a rent increase related to the lobby furniture in the amount of $380.79.

Preliminary Issue – Service

The landlord affirmed the rental building contains 39 residential units. The landlord submitted this application against tenants that occupy 38 units on December 09, 2022, as one unit was empty when the landlord submitted the application.

The landlord stated that he attached the notice of hearing dated December 16, 2022 and the evidence (the materials) to all the tenants' front doors on December 19, 2022. The attending tenants confirmed receipt of the materials.

Section 71(2) of the Act states:

> In addition to the authority under subsection (1), the director may make any of the following orders:
> (a)that a document must be served in a manner the director considers necessary, despite sections 88 [how to give or serve documents generally] and 89 [special rules for certain documents];
> (b)that a document has been sufficiently served for the purposes of this Act on a date the director specifies;
> (c)that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Residential Tenancy Branch (RTB) Policy Guideline 12 states:

> The Legislation provides that the Residential Tenancy Branch may make the following orders:
> […]
> • Where a document has been served, that a document has been sufficiently served for the purposes of the Legislation on a day the director specifies.
> • That a document not served in accordance with the service sections of the Legislation has been sufficiently given or served for the purposes of the Legislation.

Based on the landlord's convincing and undisputed testimony and considering that all the attending tenants confirmed receipt of the materials in accordance with the landlord's testimony, I find the landlord sufficiently served the materials, pursuant to

section 71(2)(c) of the Act. I deem all the tenants sufficiently served on December 22, 2022, per section 90(c) of the Act.

The landlord confirmed receipt of the tenants' response evidence documents and that he had enough time to review them.

Based on the undisputed testimony, I find the tenants served their response evidence in accordance with section 89(1) of the Act. I accept the tenants' response evidence.

Application for Additional Rent Increase

The landlord testified the rental building was built in 1978 and the landlord started managing it in November 2021.

The landlord is seeking an additional rent increase for eight expenditures: drywall, carpet, mailboxes, hot water tank labour, rental units' door locks replacement, new signage, installation of corner guards and new electrical plugs.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove the case is on the person making the claim.

Regulation 23.1 sets out the framework for determining if a landlord is entitled to impose an additional rent increase for expenditures:

> (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.

Per Regulation 23.1(5), the tenant may defeat an application for an additional rent increase for expenditure if the tenant can prove, on a balance of probabilities, that the expenditures were incurred:

(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.

If a landlord discharges their evidentiary burden and the tenant fails to establish that an additional rent increase should not be imposed for the reasons set out in Regulation 23.1(5), a landlord may impose an additional rent increase pursuant to section 23.2 and 23.3 of the Regulation.

Regulation 21.1 defines major component and major system:

"major component", in relation to a residential property, means

> (a)a component of the residential property that is integral to the residential property, or
> (b)a significant component of a major system;
> "major system", in relation to a residential property, means an electrical system, mechanical system, structural system or similar system that is integral
> (a)to the residential property, or
> (b)to providing services to the tenants and occupants of the residential property;

I will address each of the legal requirements.

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below.

Prior application for additional rent increase

The landlord said he did not submit a prior application for rent increase.

Based on the landlord's undisputed and convincing testimony, I find that the landlord has not imposed an additional rent increase in the 18 months preceding the date on which the landlord submitted the application, per regulation 23.1(2).

Number of specified dwelling units

The landlord affirmed that all 39 residential rental units benefit from the expenditures.

Regulation 21.1(1):

> "Dwelling unit" means the following:
> (a)living accommodation that is not rented and not intended to be rented;
> (b)a rental unit;
> […]
> "specified dwelling unit" means
> (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.

Based on the landlord's undisputed convincing testimony, I find the rental building has 39 specified dwelling units, per regulation 21.1(1). I find the landlord submitted this

application against all the rented residential units on which the landlord intends to impose the rent increase, per regulation 23.1(3).

Expenditures incurred in the 18-month prior to the application

RTB Policy Guideline 37 states: “capital expenditure is considered ‘incurred’ when payment for it is made.”

The landlord stated that all the expenditures claimed were incurred between April and June 2022. All the invoices are dated between March and July 2022.

Tenant MAF testified that several invoices submitted by the landlord do not indicate the payment date.

I find MAF’s testimony vague, as MAF did not specifically indicate which invoices were missing a payment date. Even if an invoice is missing a payment date, this does not mean that it was not paid in the 18-month prior to the application.

Based on the landlord’s convincing testimony and the invoices submitted, I find the landlord proved that he incurred the expenditures in the 18-month period preceding the submission of this application, per Regulation 23.1(4)(b), as the expenditures occurred

between March and July 2022 and the landlord submitted this application on December 09, 2022,

Expenditures expected to occur again for the next five years
The landlord said that the expenditures are not expected to occur again for at least 5 years.

Tenant GAN disputed the landlord's testimony about the hot water tank. I will address the hot water tank in the heading 'hot water tank'.

Based on the landlord's undisputed and convincing testimony, I find the landlord proved that all expenditures except the hot water tank are not expected to be incurred again for at least five years, per Regulation 23.1(4)(c).

Expenditures because of inadequate repair
The landlord affirmed that the expenditures were not necessary because of inadequate repair or maintenance on part of the landlord.

Based on the landlord's undisputed convincing testimony, I find the expenditures were not necessary because of inadequate repair or maintenance on part of the landlord, per Regulation 23.1(5)(a).

Payment from another source
The landlord stated that he is not entitled to be paid from another source for the expenditures claimed.

Based on the landlord's undisputed and convincing testimony, I find the landlord is not entitled to be paid from another source, per Regulation 23.1(5)(b).

Type and reason for each expenditure
I will individually analyze the eight expenditures claimed by the landlord.

Drywall
The landlord replaced the drywall of the common areas of the building, including the lobby and the hallways, as there was a strong second hand smoke smell in the original drywall and there were sharp ridges. The drywall replaced in 2022 was from 1978. The landlord testified that he needed to replace the drywall, not because of wear and tear,

but because of the strong second hand smoke smell and that tenants complained about the sharp ridges and the smoke smell.

The landlord submitted eight photographs showing the drywalls before the expenditure and eight photographs showing the drywalls after the expenditure.

The landlord submitted four invoices into evidence in the total amount of $62,889.75 for this expenditure: $21,846.30, due on July 22, 2022, $9,445.59, due on May 07, 2022, $10,818.57, due on June 01, 2022, and $20,779.29, due on April 10, 2022.

Tenant MAF affirmed the landlord could have used an inexpensive product to remove the smoke pollution and that the landlord installed new drywall because he wanted to modernize the rental building.

Tenant FAN stated that he did not notice smoke pollution in the old drywall and that tenants did not complain about the old drywall.

RTB Policy Guideline 37C states:

> The Regulation defines a “major system” as an electrical system, mechanical system, structural system, or similar system that is integral to the residential property or to providing services to tenants and occupants. A “major component” is a component of the residential property that is integral to the property or a significant component of a major system.
> Major systems and major components are essential to support or enclose a building, protect its physical integrity, or support a critical function of the residential property. **Examples of major systems or major components include, but are not limited to, the foundation; load-bearing elements (e.g., walls**, beams, and columns); the roof; siding; entry doors; windows; primary flooring in common areas; subflooring throughout the building or residential property; pavement in parking facilities; electrical wiring; heating systems; plumbing and sanitary systems; security systems, including cameras or gates to prevent unauthorized entry; and elevators.
> **A major system or major component may need to be repaired, replaced, or installed so the landlord can meet their obligation to maintain the residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law.** Laws include municipal bylaws and provincial and federal laws. For example, a water-based fire protection system may need to be installed to comply with a new bylaw.
> Installations, repairs, or replacements of major systems or major components will qualify for an additional rent increase if the system or component has failed, is malfunctioning, or is inoperative. For example, this would capture repairs to a roof

> damaged in a storm and is now leaking or replacing an elevator that no longer operates properly.
> **Installations, repairs or replacements of major systems or major components will qualify for an additional rent increase if the system or component is close to the end of or has exceeded its useful life**. A landlord will need to provide sufficient evidence to establish the useful life of the major system or major component that was repaired or replaced. This evidence may be in the form of work orders, invoices, estimates from professional contractors, manuals or other manufacturer materials, or other documentary evidence.
> Repairs should be substantive rather than minor. For example, replacing a picket in a railing is a minor repair, but replacing the whole railing is a major repair. Cosmetic changes are not considered a capital expenditure. However, a cosmetic upgrade will qualify if it was part of an installation, repair, or replacement of a major system or component. For example, a landlord may replace carpet at the end of its useful life with porcelain tiles even if it costs more than a new carpet.
> The following is a non-exhaustive list of expenditures that would not be considered an installation, repair, or replacement of a major system or major component that has failed, malfunctioned, is inoperative or is close to the end of its useful life:
> • repairing a leaky faucet or pipe under a sink,
> • routine wall painting, and
> • patching dents or holes in drywall.

RTB Policy Guideline 40 states:

> A landlord may apply for an additional rent increase in an amount greater than the basic Annual Rent Increase in extraordinary circumstances. One of those circumstances is when a landlord has completed significant repairs or renovations that could not have been foreseen under reasonable circumstances and that will not recur within a reasonable time period. When reviewing applications for additional rent increases, the director may use this guide to determine whether the landlord could have foreseen the repair or renovation.
> […]
> Useful life of drywall: 20 years.

I accept the landlord's uncontested testimony that the drywall replaced in 2022 was from 1978. The parties did not submit testimony or evidence regarding the drywall's useful life contrary to the policy guideline. I find the original drywall was beyond its

useful life, as it was 44 years old when it was replaced and Policy Guideline 40 provides the useful life of drywall is 20 years.

Based on the landlord's convincing testimony, the photographs and the invoices, I find the landlord proved that he replaced the drywalls in the lobby and hallways instead of doing a routine wall painting or patching dents or holes in the drywall.

I find that the drywall replaced, part of the rental building's walls, is a major component of the rental building, as the walls are integral to the rental building and are load-bearing elements, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of $62,889.75 to replace the drywall is in accordance with Regulation 23.1(4)(a)(ii), as the landlord replaced the original drywall from 1978 in 2022, and the drywall is part of the rental building's load-bearing elements, which is a major component.

Carpet

The landlord replaced the carpet of the common areas of the building, including the hallways, lobby and laundry room, as the carpet replaced was between 10 and 15 years old, beyond its useful life and becoming slippery. The landlord testified the carpet replaced was a trip hazard because it was worn down.

The landlord submitted six photographs showing a worn carpet in the hallways and four photographs showing the new carpet.

The landlord submitted five invoices into evidence in the total amount of $23.936.22 for this expenditure: $1,992.79, due on March 31, 2022, $15,551.24, on May 26, 2022,

$767.71, on May 06, 2022, $3,857.58, on May 11, 2022 and $1,766.90, on May 13, 2022.

The invoice dated May 13, 2022 states: “Moving laundry machines for flooring install by Comino carpets, reinstalling laundry machines after flooring install. Installing new cover base rubber baseboards in the laundry rooms.”

Tenant MAF affirmed the previous carpet was old, but he is not sure if it was dangerous.

Tenant GAN stated the old carpet needed to be replaced.

RTB Policy Guideline 40 states the useful life of carpet is 10 years.

I accept the landlord’s uncontested testimony that the carpet replaced in 2022 was between 10 and 15 years old. The parties did not submit testimony or evidence regarding the carpet’s useful life contrary to the policy guideline. I find the carpet was beyond its useful life, as it was between 10 and 15 years old when it was replaced and Policy Guideline 40 provides the useful life of carpet is 10 years.

Based on the landlord’s convincing testimony, the photographs and the invoices, I find the landlord proved that he replaced the carpet in the common areas.

I find the carpet replaced is part of the rental building’s primary flooring in common areas and it is a major component of the rental building, as the carpet is integral to the rental building, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of $23.936.22 to replace the carpet in the common areas is in accordance with Regulation 23.1(4)(a)(ii), as the landlord

replaced the carpet that was beyond its useful life and the carpet is part of the rental building's primary flooring, which is a major component.

Mailboxes

The landlord replaced the mailboxes, as they were from 1978 and tenants complained that they did not close properly. The landlord testified the old mailboxes were a safety threat, as the tenants' mail was not secure because the doors did not close properly.

The landlord affirmed he could not repair the old mailboxes, as they were beyond their useful life.

The landlord submitted two photographs showing old mailboxes and three photographs showing new mailboxes.

The landlord submitted four invoices into evidence in the total amount of $1,906.07 for this expenditure: $190.01, due on June 23, 2022, $1,592.72, on May 02, 2022 and $123.34, on June 21, 2022.

Tenant MAF said that his old mailbox was in good condition and the door closed.

Counsel MAD stated the new mailboxes have sharp edges.

RTB Policy Guideline 40 states the useful life of mailboxes is 15 years.

Based on the landlord's convincing testimony and the photographs, I find the landlord proved that the mailboxes replaced in 2022 were from 1978. The parties did not submit testimony or evidence regarding the mailboxes' useful life contrary to the policy guideline. I find the original mailboxes were beyond their useful life, as the mailboxes were 44 years old when the landlord replaced them, and Policy Guideline 40 provides the useful life of mailboxes is 15 years.

Per section 32(1)(b) of the Act, the landlord must maintain the rental unit suitable for occupation.

I find that being able to receive mail and store mail safely is essential for tenants, as important documents are mailed, such as tax receipts, medical documents and legal notices. I find that mailboxes that function properly contribute to the tenants' safety, as it is less likely that someone will be able to tamper with the tenants' mail when the mail is properly secured. Thus, I find that mailboxes are part of the rental building's security

system. I find the security system is a rental building's major system, as this system is integral to the rental building and provides security to the tenants, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of $1,906.07 to replace the original mailboxes is in accordance with Regulation 23.1(4)(a)(ii), as the mailboxes are part of a major security system, which is a major system of the rental building, and the mailboxes were beyond their useful life.

Hot water tank labour

The landlord replaced the hot water tank (the tank), as the prior tank, which was two years old and under warranty, failed. The landlord paid only for the labour to replace it.

The landlord submitted one invoice dated April 20, 2022 in the amount of $10,510.39 and one photograph showing the new tank. The invoice states: "to supply labour and

materials, leaking hot water boiler." The materials are electrical supplies used in the installation.

The landlord testified the tank is an essential system, as hot water is essential for the tenants and that the new tank is more energy efficient. The landlord said there will be a reduction in energy use with the new tank.

Tenant MAF affirmed that he should not pay for the tank replacement labour.

Tenant GAN stated that he has been occupying the rental unit for 16 years and he believes the hot water tank needs to be replaced every four years, as the landlord has replaced the hot water tank three or four times in the last 16 years.

The landlord testified that there are two hot water tanks in the rental building and that their life expectancy is over five years.

RTB Policy Guideline 40 states the life expectancy of a domestic hot water tank is 10 years.

I find GAN's testimony is vague, as GAN did not specify how many times each tank was replaced and that he 'believes' the hot water tanks need to be replaced every four years.

Based on the landlord's more convincing testimony, and considering Policy Guideline 40, I find the landlord proved that the tank has a life expectancy of more than five years and the landlord is not expected to replace the hot water tank for at least five years, per Regulation 23.1(4)(c).

I find the tank and the labour necessary to replace it are part of the plumbing and sanitary system. I find the plumbing and sanitary system is a rental building's major system, as the plumbing and sanitary system is an integral system to the rental building and it provides access to water, per regulation 21.1 and Policy Guideline 37C. I note that the labour expenses are not the landlord's own labour, but a contractor hired to

replace the tank and that the invoice indicates the expenditure was for the labour and materials to replace the tank.

Based on the landlord's convincing testimony, the photograph and the invoice, I find the landlord proved that he replaced the prior failed tank in 2022.

Considering the above, I find that the expenditure of $10,510.39 for the labour to replace the failed tank is in accordance with Regulation 23.1(4)(a)(ii), as the landlord replaced part of an essential major system because the prior tank failed.

Locks

The landlord replaced the rental units' door locks, including the door knobs and deadbolts, as the old ones were from 1978 and some tenants complained their doors did not lock. The landlord said the old locks were a safety threat, as the rental unit's doors did not lock, and the new locks improve the tenants' safety.

The landlord submitted three photographs showing the new locks.

The landlord submitted one invoice dated April 14, 2022 in the amount of $9,658.25. It states: "purchasing and installing new door knobs and deadbolts on all unit and building doors – excluding front and exit doors."

Tenant MAF affirmed that his lock was in good condition.

RTB Policy Guideline 40 states the useful life of locks is 20 years.

I accept the landlord's uncontested testimony that the locks replaced in 2022 were from 1978. The parties did not submit testimony or evidence regarding the locks' useful life contrary to the policy guideline. I find the original locks were beyond their useful life, as

they were 44 years old when the landlord replaced them, and Policy Guideline 40 provides the useful life of locks is 20 years.

Based on the landlord's convincing uncontested testimony, the photographs and the invoice, I find the landlord proved that he replaced the old locks.

I find that being able to lock the rental unit's door is essential for the tenants' safety. I find that locks that function properly contribute to the tenants' safety, as it is less likely that someone will be able to break in the rental units.

Based on the above, I find that locks are part of the rental building's security system.

Based on the landlord's convincing testimony, the photographs and the invoice, I find that the expenditure of $9,658.25 to replace the original locks is in accordance with Regulation 23.1(4)(a)(ii), as the locks are part of the major security system and were beyond their useful life.

Signage

The landlord replaced the rental building's signage on each of the rental unit's doors, as the prior signs were from 1978 as some of them were in bad condition. The landlord stated that the new signage helps to easily identify the rental units and this is important

for the tenants' safety during an emergency. The landlord testified it is important to have uniform signs.

The landlord submitted five photographs showing the new signs and two invoices in the total amount of $2,218.81 for this expenditure: $1,777.81, due on February 17, 2022 and $441.00, due on August 18, 2022.

Tenant MAF said that the old signs were in good condition and that the new signs are less aesthetically pleasing.

I find the landlord's testimony about the old signage condition was vague, as the landlord did not explain which specific signs were in bad condition.

I find the landlord's vague testimony does not outweigh tenant MAF's testimony.

RTB Policy Guideline 40 states:

> If a building element does not appear in the table, the useful life will be determined with reference to items with similar characteristics in the table or information published by the manufacturer. Parties to dispute resolution may submit evidence for the useful life of a building element. Evidence may include documentation from the manufacturer for the particular item claimed.

RTB Policy Guideline 40 does not provide a useful life for signage and the parties did not present evidence regarding this issue.

Thus, I find the landlord failed to prove that the old signage was inoperative or close to the end of its useful life or that new signage was necessary for the landlord to maintain

the rental building in a state that complies with the health, safety and housing standards required by law.

Considering the above, I find the new signage expenditure is not in accordance with Regulation 23.1(4)(a).

Corner guards

The landlord installed corner guards in the rental building's common area walls to prevent damages to the tenants' furniture and the walls. The landlord affirmed the corner guards make the rental building safer for the tenants.

The landlord submitted one invoice in the amount of $1,885.11, due on May 10, 2022. It states: "Please glue and install the corner guards."

The landlord did not indicate that the corner guards are part of the drywall expenditure. I find that corner guards are not an integral part of the rental building or part of a major component, as they were installed as an upgrade in 2022. The landlord did not explain how corner guards are integral to the rental building. Based on the landlord's testimony, I find the landlord failed to prove that the corner guards are part of a major system or component.

I further find the landlord failed to prove that the corner guards are necessary for the landlord to maintain the rental building in a state that complies with the health, safety and housing standards required by law, as the landlord did not provide testimony about this issue.

Considering the above, I find the corner guard expenditure is not in accordance with Regulation 23.1(4)(a).

Electrical plugs

The landlord replaced the rental building's electrical plugs in the common areas, as the prior plugs were from 1978, they were malfunctioning and beyond their useful life. The

landlord stated that it was hard to vacuum clean the rental building's common areas due to the inoperative plugs and now it is easier to clean the common areas.

The landlord submitted one invoice in the amount of $495.16, dated May 27, 2022, for this expenditure. It states: "Replace all common room hallway plugs with newer Decora style."

Based on the landlord's undisputed convincing testimony, I find the old plugs were malfunctioning.

I find that electrical plugs are an integral part of the rental building and are essential to provide access to electricity to the tenants. Thus, I find that electrical plugs are part of the rental building's electrical system. I find the electrical system is a major system, as it is integral to the rental building and provides access to electricity, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of $495.16 to replace the electrical plugs in the common areas is in accordance with Regulation 23.1(4)(a)(ii), as the landlord replaced the electrical plugs that were malfunctioning and the electrical plugs are part of the rental building's electrical system, which is a major component.

Final submissions

The landlord testified the expenditures are important for the tenants' safety, the majority of tenants are happy with the expenditures and the landlord completed them so the tenants can enjoy the rental building.

Tenants GAN and MAF said the rental building is better because of the expenditures, but most of the expenditures are cosmetic improvements and the tenants should not have a rent increase.

Counsel MAD affirmed that a significant portion of the expenditures should be rejected, as maintenance can not be considered part of a major system. The landlord did not submit documentary evidence to demonstrate that the maintenance was necessary. The landlord should provide extensive evidence to prove the necessity of the expenditures, as it happened in RTB decisions 092022-9434 and 082022-8387.

Counsel MAD stated the tenants do not directly benefit from the expenditures, which are cosmetic and help the landlord to rent units at a higher rate. The current market rate is

$1,800.00 per month. The carpet did not pose hazards and the landlord replaced it because it was old. Some of the photographs submitted are blurry and not in colour.

Counsel MAD testified the landlord should not use the Act as a tool to overburden the tenants with cosmetic expenditures and to overburden the RTB with an influx of applications for an additional rent increase.

Counsel MAD said that tenant TOT has been living in the rental unit for 17 years and struggles to keep up with the cost of living.

Pursuant to section 64(2) of the Act, I am not bound by previous RTB decisions.

I find MAD's argument about rejecting expenditures because maintenance can not be considered part of a major system or that maintenance was not necessary was vague, as MAD did not explain which expenditures can not be considered part of a major system or that maintenance was necessary. I note that during the 112-minute hearing the landlord presented a convincing testimony and I inquired the parties, including counsel MAD, multiple times if they disputed the landlord's testimony. I addressed in this decision all the relevant testimony provided by the parties. Counsel MAD only vaguely disputed some of the landlord's testimony in her final submissions.

The rent increase for the carpet expenditure was allowed, as the landlord proved the old carpet was beyond its useful life and the carpet is part of the rental building's primary flooring, which is a major component.

I find the photographs submitted by the landlord are clear enough to prove the relevant points discussed in this decision. The Act does not require the landlord to provide documentary evidence. Furthermore, I did consider the invoices and photographs, in addition to the landlord's convincing testimony.

Last but not least, as stated in the heading 'Additional Rent Increase', the landlord must prove that he complied with Regulation 23.1(1) to (4) in order to be awarded an additional rent increase. If the tenants do not prove that the expenditures were incurred in the conditions explained in Regulation 23.1(5), the landlord may impose the additional rent increase. The tenants' financial difficulties are not a reason to deny an additional rent increase.

Outcome

The landlord has been successful in this application, as the landlord proved that all the elements required to impose an additional rent increase for expenditure and the tenants failed to prove the conditions of Regulation 23.1(5).

In summary, the landlord is entitled to impose an additional rent increase for the following expenditures:

Expenditure	**Amount $**
Drywall	62,889.75
Carpet	23.936.22
Mailboxes	1,906.07
Hot water Tank labour	10,510.39
Locks	9,658.25
Electrical plugs	495.16
Total	**109,395.84**

Section 23.2 of the Regulation sets out the formula to be applied when calculating the amount of the additional rent increase as the number of specified dwelling units divided by the amount of the eligible expenditure divided by 120. In this case, I have found that there are 39 specified dwelling units and that the amount of the eligible expenditure is $109,395.84.

The landlord has established the basis for an additional rent increase for expenditure of $23.37 per unit ($109,395.84 / 39 units / 120). If this amount represents an increase of more than 3% per year for each unit, the additional rent increase must be imposed in accordance with section 23.3 of the Regulation.

The parties may refer to RTB Policy Guideline 37C, Regulations 23.2 and 23.3, 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 (http://www.housing.gov.bc.ca/rtb/WebTools/AdditionalRentIncrease/#NoticeGeneratorPhaseOne/step1) for further guidance regarding how this rent increase may be imposed.

Conclusion

The landlord has been successful. I grant the application for an additional rent increase for expenditures of $23.37 per unit. The landlord must impose this increase in accordance with the Act and the Regulation.

The landlord must serve the tenants 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: March 31, 2023

Residential Tenancy Branch