



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. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of any evidence on file.

Issues

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

Background and Evidence

This tenancy began in 2018. The current landlord purchased the rental property in 2021. The rental unit is a single townhouse unit.

The landlord testified that he was seeking to impose an additional rent increase for a capital expenditures incurred to replace all the existing poly B piping in the unit with new PEX pipes and for the replacement of the garage door lift system. The landlord testified the old piping caused multiple flooding incidents and was strongly recommended to be replaced by professional plumbing contractors. The landlord submits the garage door opener reached the end of its useful life and required replacement.

The landlord submitted copies of invoices supporting each of the above capital expenditures.

The tenant acknowledged the plumbing leaks and that the piping needed replacement as well as the garage door lift system. The only issue raised by the tenant was that some of the replaced piping was still left exposed as the drywall had not been replaced.

The landlord acknowledged the drywall still needed to be replaced but stated it could wait as it was more an aesthetics issue.

The parties confirmed that the landlord has not imposed an additional rent increase in the 18 months preceding this application.

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 capital expenditures incurred to replace the plumbing pipes and the garage lift opener both fall under the category of “major components” or a “major system” of the residential property as per above. I find the capital expenditures were necessary as provided under section 23.1(4) of the Regulation.

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 one unit as being subject to the capital expenditures. I find this to be correct.

Allowable additional monthly rent increase

\$Amount of eligible capital expenditure / # of specified dwelling unit / 120
($\$8,780.05 \div 1 \text{ unit} \div 120$) = \$73.17

The landlord is granted an additional monthly rent increase for capital expenditures of \$73.17. 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 \$73.17. 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: March 6, 2023

Residential Tenancy Branch