

DECISION

Introduction

This hearing dealt with the landlord's September 15, 2023, 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.

Applications are processed and assessed according to strict criteria set out in the Act, Regulations, RTB Policy Guidelines 37A, 37B, 37C, and the RTB Rules of Procedure.

Specific professional documentation and evidence must be well organized and provided by the landlords to establish on the balance of probabilities that they have satisfied all requirements necessary to increase rent above and beyond the yearly maximum percentage for annual rent increases as set in section 22.2 of the Regulations.

The basic maximum allowable percentage for 2024 is 3.5%.

Issues to be Decided

Is the landlord entitled to impose an additional rent increase for capital expenditures in the amount claimed of \$51,875.75 for:

- A Window Replacement Project costing \$45,108.70
- In Unit Electric Panel Replacement Project costing \$6,767.05

Background and Evidence

The landlord was represented by the Property Manager L.V. and Building Manager D. M. Two Tenants were present at the hearing.

The Landlord indicated that tenants were served to the door with all required information on September 15, 2023, as required by the Standing Order on Service dated February 17, 2023, but did not provide Proof of Service as required by RTB Rule of Procedure 3.1.1.

Tenant J.M. testified Tenants of the 11 Unit Residential Property were served all information required by RTB Rule of Procedure 3.1 and 11.2, and that service occurred more than 30 days in advance of the hearing.

Rule 11.4 of the RTB Rules of Procedure must also be considered as required by 23.1(5) of the Regulations before finding that a complete application was served on the Tenants and provided to the RTB. This rule requires that Landlords submit as evidence in their Applications for Additional Rent Increases, all documents in their possession regarding:

- Maintenance records for each component or system that was installed, replaced or repaired.
- Payments they have received or are entitled to receive from any other sources for installing, repairing or replacing a major component or system.

Analysis

I find that the landlords failed to provide evidence of a complete application and submission that satisfies all requirements of the *Act*, Regulations, Policy Guidelines, and Rules of Procedures.

I find that the Landlord failed to submit or refer to either set of records required RTB Rule of Procedure 11.4 and 23.1(5) of the Regulations:

- The lack of evidence related to maintenance is not at issue because the Windows and Electric Panels are said to have exceeded their expected serviceable life by multiple decades.
- The Landlord's lack of evidence related to eligibility of funding for the Window Replacement Project is potentially problematic. The Landlord must establish if they have been paid or are entitled to be paid by other sources as per 23(5)(B) of the Regulations.

I also find that the Landlord failed to provide Proof of Service as required by RTB Rule of Procedure 3.1.1.

Lastly, I find that the Landlord failed to establish the exact amount of costs incurred for the two capital expenditure projects as claimed because they did not provide complete invoices with proof of payment for the Window Replacement Project or the Electric Panel Replacement Project.

Proof of payment is a requirement of RTB Policy Guideline **37C Additional Rent Increase for Capital Expenditures** and as contemplated by section 43 of the *Act*.

Conclusion

I dismiss the Landlord's application with leave to reapply. The merits of this application were not considered.

I order the Landlord to serve all 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 Act.

Dated: December 22, 2023

Residential Tenancy Branch