



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

The landlord's application filed on April 2, 2023, is seeking a rent increase pursuant to sections 43(1)(b) and 43(3) of the Residential Tenancy Act ("Act") and section 23.1 of the Residential Tenancy Regulation, B.C. Reg. 477/2003. Residential Tenancy Policy Guideline 37: Rent Increases.

This matter commenced on August 10, 2023. The interim decision made on August 16, 2023, should be read in conjunction with this Decision. The interim decision and reconvene Notice of Hearing was sent by the Residential Tenancy Branch to all parties on August 31, 2023.

Only the parties listed on the covering decision appeared on November 27, 2023.

Issue to be Decided

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

Background and Evidence

While I have considered the submission of the parties and documentary evidence not all details of their submissions are reproduced here. The relevant and important evidence related to this application before me have been reviewed, and my findings are set out below in the analysis portion of this Decision.

The capital expenditure (the "Work") incurred as follows:

Item	Description	Amount
1.	Elevator Modernization	\$259,033.27
2.	Hallway Renovation	\$14,986.92
4.	Lobby Renovation	\$17,457.63
		Total
		\$291,477.82

The above table does not include the Capital Expenditure for item 3 and 5 listed in the landlord's application because they had been removed at the hearing on August 10, 2023. Counsel for the landlord stated that although they are entitled to claim over \$170,00 for Items 2 and 4 in their application, they are reducing the amounts as listed in the above table.

The rental property was constructed in 1955 and consist of 41 rental units. Legal counsel for the landlord submits that the capital expenditures were incurred in relation to the projects within 18 months preceding their application and the anticipate useful life is between 15 to 20 years and therefore, not expected to recur for at least five years.

Legal counsel for the landlord submits that these capital expenditures were incurred by the landlord in order to repair, install or replace a major system or a major component of a major system that had failed or was close to the end of its useful life, to maintain rental property in a state of decoration and repair, that complies with the health, safety, and housing standards required by law, to reduce energy use at the rental property, and to improve the security of the rental property.

Item 1 - Elevator Modernization

Legal counsel for the landlord submits that a major control modernization was completed including installation of a car door restrictor, hall door retainers, door unlocking devices, car top railings, cab finishes, and machine room cooling as recommended. The elevators were at the end of their serviceable life and safety components were added.

Legal counsel for the landlord submits that the landlord was not entitled to be paid from another source for the any of the work subject to this application.

Legal counsel submits the following on the capital expenditures in the landlord's written submission, which I have copied and pasted into my decision.

.

The landlord submits the following written submission

34. These expenditures comply with the Act and Regulations, as set out below

Reason for Capital Expenditure	Applicable Section of the Act/Regulations
<p>Details of Capital Expenditure: Major control modernization was completed including installation of a car door restrictor, hall door</p>	<p>Section 23.1(4)(a), Regulation: Subject to subsection (5), the director must grant an</p>
<p>retainers, door unlocking devices, car top railings, cab finishes, and machine room cooling. Expenditure was recommended by an elevator consultant.</p> <p>The Capital Expenditure Complies with section 23.1(4)(a) of the Regulations:</p> <ul style="list-style-type: none"> The elevator is a major system, since it is integral to providing access for tenants to their individual units, particularly those who are elderly or have mobility issues. Elevators are also specifically listed as an example of a major system or major component of a major system in RTPG 37C [Tab 4] Major components of the elevator were at the end of their useful life and required replacing. This is confirmed by the Due Diligence report of KJA Consultants Inc. ("KJA"), an elevator design and inspection company, found at appendix C of Tab 6 on pages 189-209. The elevator was inspected on December 9, 2020, and in the report which followed, KJA recommended that the elevator equipment at Glenmore be modernized within two years (see page 191). The elevator modernization increased the safety and security of residents, as there was a chance the elevator could malfunction and trap residents. [Tab 7] This work was done to replace major systems or major components of a major system in order to maintain Glenmore in compliance with s. 32(1) of the Act, to replace major systems or major components that are at the end of their useful life, and to improve the safety and security of the building in accordance with sections 23.1(4)(a)(i), (ii), and (iii)(A) of the regulations. <p>Evidence Supporting Capital Expenditure:</p> <ul style="list-style-type: none"> Table of Detailed Capital Expenditures [Tab 2] Supporting Invoices and Proof of Payment [Tab 2a] Due Diligence Building Condition Review of Morrison Hershfield [Tab 6] Specifications for Tender re elevator modernization project [Tab 7] Maintenance Invoices for Elevator [Tab 8] 	<p>application under this section for that portion of the capital expenditures in respect of which the landlord establishes the following:</p> <p>(a) The capital expenditures were incurred for one of the following:</p> <ol style="list-style-type: none"> 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 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); 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; the installation, repair or replacement of a major system or major component that achieves one or more of the following: <ol style="list-style-type: none"> a reduction in energy use or greenhouse gas emissions; an improvement in the security of the residential property.
Incurred in 18-month period proceeding date on which the Landlord made the Application (October 2, 2021 to April 2, 2023)	Applicable Section of the Act/Regulations
<p>Dates Capital Expenditures Occurred: As set out in Tab 2, all capital expenditures were made in the 18-Month Period, with the exception of three invoices totaling \$125,581.68. Payments for the elevator expenditure continued until May 22, 2022, and therefore the</p>	<p>Section 23.1(4)(b), Regulation: Subject to subsection (5), the director must grant an application under this section for that portion of the capital expenditures in respect</p>

amounts associated with the elevator expenditure prior to the 18-month window are eligible for the additional rent increase.	of which the landlord establishes the following: (b) the capital expenditures were incurred in the 18-Month period preceding the date on which the landlord makes the application;
Not expected to recur for at least 5 years	Applicable Section of the Act/Regulations
<p>Estimated Useful Life of Capital Expenditure: 20 years</p> <p>Basis for Estimate (RTPG 40 and Institutional Knowledge of Landlord):</p> <ul style="list-style-type: none"> RTPG 40 sets out the estimated useful life for an elevator as 20 years The elevator was last replaced in 1995 and a modernization was carried out in 2003. The Landlord does not anticipate making similar repairs or upgrades in the next 20 years. [Tab 6, pg. 190] 	<p>Section 23.1(4)(c), Regulation: 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 the following:</p> <p>(c) the capital expenditures are not expected to be incurred again for at least 5 years</p>

BC Assessment Information for Glenmore Apartments [Tab 1]
Table of Detailed Capital Expenditures [Tab 2]
Supporting Invoices and Proof of Payment [Tab 2a]
RTPG 37C [Tab 4]
RTPG 40 [Tab 5]
Due Diligence Building Condition Review of Morrison Hershfield [Tab 6]
Specifications for Tender re elevator modernization project [Tab 7]
Maintenance Invoices for Elevator [Tab 8]

Relevant written submission of tenants, which I have copied

A. Elevator

25. The majority of the Applicant's claim is made up of alleged expenditure for the Elevator.
26. The Applicant has not provided evidence of s 23.1 (4) of the Regulations, namely that the Elevator was at the end of their useful life and to improve the safety of the building.
27. Further and/or alternatively, the due diligence report and KJA report indicate that Applicant/InterRent had notice of the condition of the building and elevator, prior to purchase. The purchase price would have reflected this. If, which it is denied and not established from the due diligence report, the elevator and other components were at end of life in January 2021, this would have been reflected in the purchase price. In short, the Applicant will already have recovered these costs through alternative means (e.g a lower purchase price of the building).
28. The Applicant seeks reimbursement for consultation services by Rooney Irving Associates in the sum of \$6,090. Consultation services are not eligible capital expenditure as they are

not incurred for the reason of installing, repairing or replacing a major system or component.

29. Notwithstanding that it is denied that the Applicant is entitled to recover costs spent on the elevator, it is noted that the elevator continues to break down on a regular basis and since January 2023, has broken down in excess of four times, often for lengthy periods of time.
30. Further and/or alternatively, the Due Diligence Building Condition Review Dated January 21, 2021 indicates that the costs incurred for the elevator would be \$225,000, not \$259,000.
31. Further and/or alternatively, it is averred that the Applicant is out of time to claim for payments made in connection with the elevator totaling \$135,581.68 that pre-date October 4, 2021. The RTB Guidance 37C was updated in June 2023. At the time the Original Application was served on the Respondents, the guidance stated that the expenditure was incurred when payment is made or when the cheque has been issued by the Landlord. I did not include the additional guidance referred to at paragraph 17 of the Applicant's Submissions that where a capital expenditure takes more than 18 months to complete, if the final payment was made within the 18-month window, the capital expenditure will still be eligible for an additional rent increase.
32. No evidence has been provided of maintenance history provided prior to 2021.

Item 2. Hallway Renovation

Legal counsel for the landlord submits that the hallways were not sufficiently lit and to enhance building safety, additional lighting was deemed necessary. Door hardware was updated to ensure access would not become restricted due to failures.

Legal counsel for the landlord submits that the new lighting was added, and existing lighting was replaced to improve visibility in the hallways, as well as procurement and installation of building code mandated signage for stairwells, exits, and tactile signage. Hardware on the doors updated. Signage was required by the BC Building code.

The landlord submits the following written submission.

36. These expenditures comply with the Act and Regulations, as set out below:

Reason for Capital Expenditure	Applicable Section of the Act/Regulations
<p>Details of Capital Expenditure: New lighting was added and existing lighting was replaced to improve visibility in the hallways, as well as procurement and installation of building code mandated signage for stairwells, exits, and tactile signage. Hardware on the doors was updated.</p>	<p>Section 23.1(4)(a) Regulation: 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 the following:</p>
<p>The Capital Expenditure Complies with section 23.1(4)(a) of the Regulations:</p> <ul style="list-style-type: none"> • The hallways are major systems in Glenmore. • Lighting had been insufficient and so was replaced or added to ensure the safety and security of individuals using the hallways. • Tactile signage for the visually impaired was added to meet BC Building Code requirements. • This work was done to replace major components of major systems in order to maintain the building in compliance with s. 32(1) of the Act and to replace major systems or major components that are at the end of their useful life, in accordance with sections 23.1(4)(a)(i) and (ii) of the Regulations. <p>Evidence Supporting Capital Expenditure:</p> <ul style="list-style-type: none"> • Table of Detailed Capital Expenditures [Tab 2] • Supporting Invoices and Proof of Payment [Tab 2c] 	<p>(a) The capital expenditures were incurred for one of the following:</p> <ol style="list-style-type: none"> 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 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); 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: <ol style="list-style-type: none"> A. a reduction in energy use or greenhouse gas emissions; B. an improvement in the security of the residential property.

Incurred in 18-month period proceeding date on which the Landlord made the Application (October 2, 2021 to April 2, 2023)	Applicable Section of the Act/Regulations
<p>Dates Capital Expenditures Occurred: As set out in Tab 2, all capital expenditures were made in the 18-Month Period.</p>	<p>Section 23.1(4)(b), Regulation: 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 the following:</p> <p>(b) the capital expenditures were incurred in the 18-Month period preceding the date on which the landlord makes the application;</p>

Not expected to recur for at least 5 years	Applicable Section of the Act/Regulations
<p>Estimated Useful Life of Capital Expenditure: 15 years</p> <p>Basis for Estimate (RTPG 40 and Institutional Knowledge of Landlord):</p> <ul style="list-style-type: none"> • RTPG 40 suggests an estimated useful life of 15 years for light fixtures and 20 years for doors. • The Landlord took over ownership of Glenmore 3.5 years ago, so has limited knowledge of when these components were last replaced, but does not anticipate that they will need to be replaced again for at least 15 years. 	<p>Section 23.1(4)(c), Regulation: 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 the following:</p> <p>(c) the capital expenditures are not expected to be incurred again for at least 5 years</p>

BC Assessment Information for Glenmore [Tab 1]
 Table of Detailed Capital Expenditures [Tab 2]
 Supporting Invoices and Proof of Payment [Tab 2c]
 RTPG 37C [Tab 4]
 RTPG 40 [Tab 5]

Relevant written submission of tenants, which I have copied

B. Hallway Renovation

33. The Applicant has failed to provide evidence to support the capital expenditure for replacing lighting in the hallway.
34. Paragraph 2.5.2 of the Due Diligence Report submitted on July 10th estimates that lighting is expected to reach their lifespan in five years, by January 2026. The lighting was not inoperable, according to the Due Diligence report nor was it close to the end of its useful life. It was therefore replaced unnecessarily.
35. It is not clear what tactile signage for the visually impaired was installed, however such signage is not a major system or major component of the building.

Item 4. Lobby Renovation

Legal counsel for the landlord submits that the main entrance door of building was at the end of its useful life and frequently in need of repairs and enhanced lighting was needed to improve safety and security for tenants when entering and exiting the building. Legal counsel submits for the landlord that the main entrance door was replaced, and lighting was added and replaced.

The landlord submits the following written submission.

39. These expenditures comply with the Act and Regulations, as set out below:

Reason for Capital Expenditure	Applicable Section of the Act/Regulations
<p>Details of Capital Expenditure: The main entrance door of Glenmore was replaced and improved lighting was added and replaced to enhance safety and security at Glenmore.</p> <p>The Capital Expenditure Complies with section 23.1(4)(a) of the Regulations:</p> <ul style="list-style-type: none"> • The lobby and entrance doorway are major components of Glenmore. 	<p>Section 23.1(4)(a), Regulation: 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 the following:</p> <p>(a) The capital expenditures were incurred for one of the following:</p> <ol style="list-style-type: none"> i. the installation, repair or replacement of a major

<ul style="list-style-type: none"> • The main entrance door was old and frequently needed repair. The door was replaced to ensure uninterrupted movement of tenants. • Additional lighting was added to improve visibility and improve safety and security for tenants when entering and exiting the building. • This work was done to repair a major systems or major component (the entrance to the building) in order to maintain the building in compliance with s. 32(1) of the Act and to replace major systems or major components that are at the end of their useful life, as well as to enhance safety and security in the building, in accordance with sections 23.1(4)(a)(i) and (ii) of the Regulation. <p>Evidence Supporting Capital Expenditure:</p> <ul style="list-style-type: none"> • Table of Detailed Capital Expenditures [Tab 2] • Supporting Invoices and Proof of Payment [Tab 2c] 	<p>system or major component in order to maintain the residential property, of which the major system is 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);</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> A. a reduction in energy use or greenhouse gas emissions; B. an improvement in the security of the residential property.
<p>Incurred in 18-month period proceeding date on which the Landlord made the Application (October 2, 2021 to April 2, 2023)</p>	<p>Applicable Section of the Act/Regulations</p>
<p>Dates Capital Expenditures Occurred: As set out in Tab 2, all capital expenditures were made in the 18-Month Period.</p>	<p>Section 23.1(4)(b), Regulation: 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 the following:</p> <ul style="list-style-type: none"> (b) the capital expenditures were incurred in the 18-Month period preceding the date on which the landlord makes the application;
<p>Not expected to recur for at least 5 years</p>	<p>Applicable Section of the Act/Regulations</p>

<p>Estimated Useful Life of Capital Expenditure: 15+ years</p> <p>Basis for Estimate (RTPG 40 and Institutional Knowledge of Landlord):</p> <ul style="list-style-type: none"> RTPG 40 includes estimates for useful life of 15 years for lighting and 20 years for doors. The Landlord does not anticipate that the doors or lighting will have to be paved again for at least 15 years. 	<p>Section 23.1(4)(c), Regulation: 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 the following:</p> <p>(c) the capital expenditures are not expected to be incurred again for at least 5 years</p>
---	--

BC Assessment Information for Glenmore [Tab 1]
 Table of Detailed Capital Expenditures [Tab 2]
 Supporting Invoices and Proof of Payment [Tab 2b]
 RTPG 37C [Tab 4]
 RTPG 40 [Tab 5]

Relevant written submission of tenants, which I have copied

C. Lobby Renovation

36. No evidence has been submitted by the Applicant that the doors were at end of their useful life.
37. The Applicant has failed to provide evidence to support the capital expenditure for replacing lighting in the lobby.
38. Paragraph 2.5.2 of the Due Diligence Report submitted on July 10th estimates that lighting is expected to reach their lifespan in five years. The lighting was not inoperable, according to the Due Diligence report nor was it close to the end of its useful life.
39. The Applicant states that additional lighting was added to improve visibility but there is no evidence submitted which proves that it was needed.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

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. As the dispute related to the landlord's application for an additional rent increase based upon eligible capital expenditures, the landlord has the onus to support their application.

Section 43(1)(b) of the Act allows a landlord to impose an additional rent increase in an amount that is greater than the amount calculated under the Regulations by making an application for dispute resolution.

Statutory Framework

Sections 21 and 23.1 of the Regulations sets out the framework for determining if a landlord is entitled to impose an additional rent increase for capital expenditures. I will not reproduce the sections here but to summarize, the landlord must prove the following, on a balance of probabilities:

- the landlord has not made an application for an additional rent increase against these tenants within the last 18 months;
- the number of specified dwelling units on the residential property;
- the amount of the capital expenditure;
- that the Work was an *eligible* capital expenditure, specifically that:
 - the Work was to repair, replace, or install a major system or a component of a major system
 - the Work was undertaken for one of the following reasons:
 - to comply with health, safety, and housing standards;
 - because the system or component was
 - close to the end of its useful life; or
 - because it had failed, was malfunctioning, or was inoperative
 - to achieve a reduction in energy use or greenhouse gas emissions; or
 - to improve the security of the residential property;
 - the capital expenditure was incurred less than 18 months prior to the making of the application
 - the capital expenditure is not expected to be incurred again within five years.

The tenants may defeat an application for an additional rent increase for capital expenditure if they can prove on a balance of probabilities that the capital expenditures were incurred:

- for repairs or replacement required because of inadequate repair or maintenance on the part of the landlord, or
- 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 above), the landlord may impose an additional rent increase pursuant to sections 23.2 and 23.3 of the Regulation.

In this matter, there have been no prior application for an additional rent increase within the last 18 months before the application was filed. There are 41 specified dwelling units to be used for calculation of the additional rent increase. The landlord is claiming the total amount of **\$291,477.82** as outlined in the above table for capital expenditures.

Is the Work an *Eligible* Capital Expenditure?

As stated above, in order for the Work to be considered an eligible capital expenditure, the landlord must prove the following:

- the Work was to repair, replace, or install a major system or a component of a major system
- the Work was undertaken for one of the following reasons:
 - to comply with health, safety, and housing standards;
 - because the system or component was
 - close to the end of its useful life; or
 - because it had failed, was malfunctioning, or was inoperative
 - to achieve a reduction in energy use or greenhouse gas emissions; or
 - to improve the security of the residential property;
- the capital expenditure was incurred less than 18 months prior to the making of the application;
- the capital expenditure is not expected to be incurred again within five years.

-

Item 1 - elevator

The landlord had a due diligence building inspection conducted for the residential property on November 25, and 26, 2020 and the report issued on January 21, 2021. The report indicates that the elevator was installed in 1955 and modified in 2003, 17 years earlier at the time of the inspection. The report further shows the follow recommendations to the elevator.

Description of work	Unit #	Schedule	Improvement	Cost
Major Control Modernization	1	within 3 years	Reliability	\$225,000
* Car Door Restrictor	1	1 to 2 years	Safety	\$3,000
* Hall Door Unlocking Devices	1	1 to 2 years	Safety	\$2,000
* Barrier-Free Access Upgrades	1	2 to 3 years	Accessibility	\$4,000
* Door Operator Replacement	1	2 to 5 years	Reliability	\$15,000
* Car Top Railings	1	within 5 years	Safety	\$5,000
* Emergency Power Operation	1	2 to 3 years	Safety	\$12,000
* Equipment Guarding	1	within 5 years	Safety	\$15,000
Code Changes	1	every 5 years	Contingency	\$3,000
Vandalism	1	every 5 years	Contingency	\$2,000

In this case, I find the elevator is a major component of the building. The landlord followed the recommendation of the due diligence report of January 21, 2021. I find the Work was done to increase safety, reliability and it was nearing its useful lifespan. I find this is sufficient to satisfy the requirements of the Regulation.

The landlord provided the receipts for the capital expenditure which the final payment was incurred less than 18 months prior to making the application and I find it is reasonable to conclude that this capital expenditure will not be expected to incur again within five years.

The tenants argued that the consulting report should be excluded as it is not eligible for capital expenditure as the cost was not incurred for the reasons of installing, repairing, or replacing a major system or component. However, I disagree. The report clearly was required in order to have the Work done and to ensure the scope of the project was completed as required.

The tenants argued that the landlord purchased the building, and the landlord was aware of the condition of the elevator, and this would have been reflected in the purchase price and that they have already recovered this cost. I find that argument without any merit. When property is purchased even at a reduced rate that is because that was the fair market value for the condition it was at the time. The landlord clearly had to pay for the necessary repairs.

While the elevator may continue to break down and the cost of the project may have been increase from the due diligence report; however, that is not permittable argument that the tenants are entitled to make under this section of the Act.

I find the tenants have failed to defeat an application for an additional rent increase for capital expenditure.

Based on the above, I find the landlord is entitled to recover the amount of **\$259,033.27**.

Item 2 – Hallway Renovation

The landlord had a due diligence building inspection was conducted for the residential property on November 25, and 26, 2020 and the report issued on January 21, 2021. The report indicates that are issues with the light system and the current building code mandates that the existing emergency exit signage be change from red to a green picture type in lieu of traditional red text-based signs.

In this case, I find the lighting in the hallways and signage is a major component of the building. The landlord followed the recommendation of the due diligence report of January 21, 2021. I find the Work was done to increase security and safety. I find this is sufficient to satisfy the requirements of the Regulation.

The landlord provided the receipts for the capital expenditure which were incurred less than 18 months prior to making the application and I find it is reasonable to conclude that this capital expenditure will not be expected to incur again within five years.

The tenants argued that the lights were not required to be replaced as their useful lifespan had not passed; however, the lights were replaced to improve the safety and security of the building. I do not need to consider the lifespan when replaced to improve safety and security.

The tenants further argued that the tactile signage for the visually impaired was installed; however, that is not a major component of the building. I find that position is simply unreasonable and discriminatory. A person with a disability has the right to have signage in the building that is easily identifiable as this is a safety and security requirement of the current building codes.

I find the tenants have failed to defeat an application for an additional rent increase for capital expenditure.

Based on the above, I find the landlord is entitled to recover the amount of **\$14,986.92**.

Item 4. Lobby Renovation

In this case, I find the lighting in the main entrance of the building is a major component of the building. The landlord followed the recommendation of the due diligence report of January 21, 2021. I find the Work was done to increase security and safety. I find this is sufficient to satisfy the requirements of the Regulation.

The landlord provided the receipts for the capital expenditure which were incurred less than 18 months prior to making the application and I find it is reasonable to conclude that this capital expenditure will not be expected to incur again within five years.

The tenants argued that the lifespan of the lighting had not been reached and that the lighting was to improve visibility; however, there was no evidence submitted that it was needed. I find that unreasonable because if visibility is improved that is for the safety and security of the building. Improvements such as these do not have to be proved that they are needed, only that they have been completed.

In this case, the main entrance door is a major component of the building as it provides security for the building. The landlord replaced the main entrance of the door of the building because it was failing and need of ongoing repairs. While I accept that the useful lifespan was unknown, as the landlord had recently purchased the property that was built in 1955; however, clearly the door was failing due to the age and was replaced for the security and safety of the occupants of the building.

I find the tenants have failed to defeat an application for an additional rent increase for capital expenditure.

Based on the above, I find the landlord is entitled to recover the amount of **\$17,457.63**.

Outcome

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 specific dwelling units divided by the amount of the eligible capital expenditure divided by 120. In this case, I have found that there are 41 specified dwelling unit and that the amount of the eligible capital expenditures total the amount of **\$291,477.82**

I find the landlord has established the basis for an additional rent increase for capital expenditures of **\$59.24** ($\$291,477.82 \div 41 \div 120 = \59.24).

The parties may refer to RTB Policy Guideline 40, 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 made be imposed.

Conclusion

The landlord has been successful. I grant the application for an additional rent increase for capital expenditure of **\$291,477.82**. The landlord must impose this increase in accordance with the Act and the Regulation.

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: December 26, 2023

Residential Tenancy Branch