



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

A matter regarding GF II 820 CRAIGFLOWER APARTMENTS
LTD and [tenant name ppressed to protect privacy]

DECISION

Application Code ARI-C

Introduction

GF II 820 Craigflower Apartments Ltd. applied for an additional rent increase for capital expenditures, under section 43 of the Residential Tenancy Act (the Act) and 23.1 of the Residential Tenancy Regulation (the Regulation).

GF II 820 Craigflower Apartments Ltd. represented by legal counsel AAG (the Landlord), the other landlord's agents and tenant BWA, attended the hearing. All the parties had a full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions.

Service

The Landlord affirmed that he served the notices of dispute resolution proceeding and a letter with a link to the evidence (the materials) on October 28, 2024 by attaching individual packages to the rental unit's front doors of all the named respondents. The Landlord submitted a proof of service affidavit dated October 31 indicating service of the materials in accordance with the Landlord's testimony.

Tenant BWA confirmed receipt of the materials.

The Landlord confirmed receipt of the response evidence and that he had time to review it.

Based on convincing testimony of the parties and affidavit, I find the Landlord served the materials in accordance with section 89(1) of the Act and that the Tenants served the response evidence in accordance with section 88 of the Act. Thus, I accept service of the materials and the evidence.

Application for Additional Rent Increase

The Landlord is seeking an additional rent increase for the expenditure related to installing LED lights in the total amount of \$20,937.00.

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.

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

Regulation 23.1(1) and (3) require the landlord to submit a single application for an additional rent increase for eligible expenditures “incurred in the 18-month period preceding the date on which the landlord makes the application”.

Per Regulation 23.1(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.”

Regulation 23.1(4) states the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all 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), tenants 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:

- (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.

Number of specified dwelling units and benefited units

The Landlord stated the expenditure benefits all 58 rental units located in the building.

Based on the Landlord's undisputed testimony, I find the rental building has 58 rental units and that they all benefit from the expenditure, in accordance with section 21.1(1) of the Regulation.

Prior application for an additional rent increase and application for all the tenants

The Landlord testified he did not submit a prior application for an additional rent increase and that the Landlord is seeking an additional rent increase for all the tenants, except 6 units that were empty when he submitted this application.

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

Based on the Landlord's convincing testimony, I find the Landlord submitted this application against all the rental units on which the Landlord intends to impose the rent increase, per Regulation 23.1(3).

Expenditure incurred in the 18-month prior to the application

The Landlord submitted this application on September 18, 2024.

Regulation 23.1(1) states the Landlord may seek an additional rent increase for expenditures incurred in the 18-month period preceding the date on which the landlord applied.

Thus, the 18-month period is between March 17, 2023 and September 17, 2024.

The Landlord said the expenditure happened on April 28, 2023 and submitted an invoice due on that date. The Landlord affirmed that he paid the \$20,937.00 on that date.

Based on the Landlord's convincing and undisputed testimony and the invoice, I find the Landlord incurred the expenditure in the 18-month period, per Regulations 23.1(1) and 23.1(4)(b).

Expenditure not expected to occur again for at least 5 years

The Landlord stated the expenditure is not expected to occur again for at least 5 years, as the life expectancy and warranty of the lights is 5 years.

Based on the Landlord's convincing and undisputed testimony, I find that the life expectancy of the expenditure is at least 5 years and the expenditure is not expected to occur again for this period of time. Thus, I find that the capital expenditure incurred is an eligible capital expenditure, per Regulation 23.1(4)(c).

Payment from another source

The Landlord testified that he is not entitled to be paid from another source for the expenditure claimed.

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

LED Lights

The Landlord's agent GWI said the new 122 LED lights will save electricity, as the prior lights were fluorescent. The new lights were installed on the hallways, shared laundry room, first floor washroom available to all the tenants, parking area and exterior walls, as shown in the quote submitted into evidence ('lighting quote sheet'). The Landlord also submitted a document named LED light bulbs. It states: "LED (light-emitting diode) bulbs have long been the superior energy-efficient lighting option and their technology has come a long way since they were first introduced."

Based on the Landlord's undisputed and convincing testimony, the quote and the document, I find the Landlord installed new LED lights in the building's common areas and the new lights will save electricity.

I find that common areas lights are an integral part of the rental building and are essential to illuminate the building and increase its safety. Thus, I find the lights are part of the rental building's electrical and security system.

Electrical and security systems are major systems, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of \$20,937.00 to install LED lights in the building's common areas is in accordance with Regulation 23.1(4)(a)(iii)(A), as the LED lights will reduce energy use.

The Landlord's agent GWI affirmed the lights did not need to be replaced due to inadequate repair or maintenance.

Based on the GWI convincing and undisputed testimony, I find the Landlord proved that the lights replacement was not necessary because of inadequate repair or maintenance on the part of the Landlord, per Regulation 23.1(5)(a).

The submissions provided by tenant TDO state the Landlord will save money due to the new lights and should not have an additional rent increase because of this.

The Act and the Regulation do not prevent landlords from obtaining an additional rent increase even if they will save money due to the expenditure.

Tenant BWA stated that she is glad that there are new lights.

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 LED lights in the amount of \$20,937.00.

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 58 specified dwelling units.

The Landlord has established the basis for an additional rent increase for the expenditure of \$3.01 per unit (\$20,937.00 / 58 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 \$3.01 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 Act.

Dated: January 21, 2025

Residential Tenancy Branch