



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes ARI-C

Introduction

This hearing dealt with the Landlord's Application under the *Residential Tenancy Act* (Act) and the *Residential Tenancy Regulation* (Regulation) for an additional rent increase for capital expenditures under section 43 of the Act and under section 23.1 of the Regulation.

Service of Notice of Dispute Resolution Proceeding and evidence (Proceeding Package)

The Landlord personally served the Proceeding Package for this hearing to the Tenants on December 7, 2024. The Landlord uploaded proofs of service form #RTB-55 attesting to service of the Proceeding Package on each Tenant. I find that the Tenants were sufficiently served with the Proceeding Package for this hearing on December 7, 2024, in accordance with section 71(2)(b) of the Act.

Service of Evidence

The Tenants did not upload any evidence to the Residential Tenancy Branch (RTB) dispute access site for this matter.

Issues to be Decided

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

Background, Evidence, and Analysis

While I have considered the documentary evidence and the testimony of the Landlord's property manager, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the Landlord's claim, and my findings are set out below.

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 their case is on the person making the claim.

The Tenants did not submit written submissions or evidence, and no Tenant attended the hearing to dispute the Landlord's testimony about the capital expenditure. I accept the Landlord's convincing and credible testimony about the capital expenditure.

The property manager testified that the date of house construction was 1929. This information was received from an appraiser's report dated June 2024. The roof of the home was of a shingle construction and was in very bad shape. The property manager provided that the roof was at least 30 years old. The property manager said that some small repairs to the roof have occurred over the years, but the Landlord had annual roof maintenance, and sometimes the company came two times per year. The gutters are cleaned each year. The Landlord uploaded pictures of the roof prior to the replacement of the roof.

A. Statutory Framework

Sections 21 and 23.1 of the Regulation set 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 submitted capital expenditures were:
 - o an *eligible* capital expenditure;
 - o incurred less than 18 months prior to making the application; and,
 - o 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 Tenants fail 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.

B. Prior Application for Additional Rent Increase

The property manager stated they have managed the property for the last three years. They were not aware of any prior applications for additional rent increases for the capital expenditure against any of the Tenants prior to this application. Based on the Landlord's undisputed testimony, I find the Landlord has not made a previous application for an additional rent increase for the eligible capital expenditure in the last 18 months in accordance with section 23.1(2) of the Regulation.

C. Number of Specified Dwelling Units

Section 23.1(1) of the Act contains the following definitions:

"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.

The property manager stated that there is an upper rental unit in the home, and there is a basement suite. Two people live in each unit.

I find the number of specified dwelling units for the purposes of the capital expenditure is equal to the total number of units in the building, or 2 units. I find the calculation of the additional rent increase will include the total number of 2 specified dwelling units.

D. Amount of Capital Expenditure

The Landlord submitted this application on November 27, 2024. I find the prior 18-month cut-off date for eligible capital expenditure is May 27, 2023.

The property manager testified that they are seeking, under section 23.1(4) of the Regulation, to impose an additional rent increase for the following capital expenditure incurred:

Capital expenditure		Amount
1	Roof replacement	\$18,900.00

E. Is the Work an *Eligible* Capital Expenditure?

For the capital expenditure to be considered eligible, the Landlord must prove all the following:

- the capital expenditure was to repair, replace, or install a major system or a component of a major system;
- the capital expenditure 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 property manager stated the roof was at least 30 years old and was in need of replacement.

The property manager testified they did not receive payments from another source for the above capital expenditure. Further they submitted they are not expecting and are not eligible to receive any payments going towards any of the capital expenditure. No Tenants submitted that the repairs or replacements were required because of inadequate repair or maintenance on the part of the Landlord.

Based on the Landlord's undisputed testimony, I find the Landlord has established that the capital expenditure undertaken neither has been required for repairs or replacement because of inadequate repair or maintenance on the part of the Landlord, nor has the Landlord been paid, or is entitled to be paid, from another source for the above capital expenditure in accordance with section 23.1(5) of the Regulation.

Types of Capital Expenditure

Section 21.1(1) of the Regulation defines "major system" and "major component" as:

"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;*

1. Roof replacement

Reason for roof replacement

The property manager testified that they completed the roof replacement because the roof was old, and in bad condition. The property manager submitted that the roof was at least 30 years old. The Landlord uploaded pictures of the roof prior to the replacement.

The Landlord incurred this expenditure due to the installation, repair or replacement of a major component or a major system that has failed or is close to the end of its useful life.

Residential Tenancy Policy Guideline #40-Useful Life of Building Elements (PG#40) provides a general guide for determining the useful life of building elements. The useful life is the expected lifetime, or the acceptable period of use, of an item under normal circumstances. PG#40 states that the useful life of a sloped, shingled roof is 15 years. I find the roof replacement was required as the old roof was past its useful life.

The property manager said the Landlord insisted on using a premium product for the replacement. The Landlord uploaded the invoice for the completed work, and the expected useful life of the new roof is 30 years.

The property manager stated that the replacement was needed because the old roof was at the end of its useful life. I find that a roof replacement is a major component and a major system that supports the building and protects its physical integrity that is beneficial to all occupants of the residential property. I find that the Landlord is obligated to maintain the residential property in compliance with section 32(1) of the Act, and replacing a roof that is beyond its useful life is the obligation of the Landlord.

I find the Landlord has established that the roof replacement was required as the existing roof was past its useful life. I find the capital expenditure for the roof replacement is not expected to be incurred again for at least five years. I find that the roof replacement is an eligible capital expenditure.

Timing of roof replacement

The expenditure claimed by the Landlord must have been incurred in the 18-month period prior to the application date. The onus is on the Landlord to establish on a

balance of probabilities that the expenditure meets this requirement to be eligible for an additional rent increase.

RTB Policy Guideline 37C-Additional Rent Increase for Capital Expenditures (dated June 2023) states:

...the date on which a capital expenditure is considered to be incurred is the date the final payment related to the capital expenditure was made.

The Landlord uploaded the invoice for the roof replacement from the contractor. The Landlord also uploaded their bank reconciliations demonstrating that payment for the work occurred on May 8, 2024 totaling \$17,010.00, and June 5, 2024 totaling \$1,890.00.

May 27, 2023 is the start of the 18-month period prior to the application date of the additional rent increase for the capital expenditure. I accept that the Landlord incurred the expenditure within the 18-month period prior to the application for this matter.

I accept the Landlord has paid the invoice submitted for the capital expenditure, and I find that the Landlord has provided sufficient evidence to demonstrate that the capital expenditure was “incurred” or paid within the 18-month period preceding the date on which the Landlord made their application.

I find that payment for the invoice totaling **\$18,900.00** was made within the 18-month period preceding the date on which the Landlord made the application. Therefore, I find the Landlord is entitled to seek an additional rent increase based on the above-noted expenditure for the roof replacement.

Outcome

The Landlord has been successful. They have proven, on a balance of probabilities, all the elements required to be able to impose an additional rent increase for the capital expenditure. Section 23.2 of the Regulation sets out the formula to be applied when calculating the amount of the additional rent increase as such:

$$\text{Additional rent increase} = \left[\frac{\text{Eligible capital expenditure}}{\text{Number of specified dwelling units}} \right] / 120$$

$$= \left[\frac{\$18,900.00}{2} \right] / 120 = \$78.75$$

In this case, I have found that there are 2 specified dwelling units and that the amount of the eligible capital expenditure is \$18,900.00.

So, the Landlord has established the basis for an additional rent increase for the capital expenditure of \$78.75. If this amount exceeds 3% of either Tenants' 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 Guidelines 37 (June 2023), and 40 (March 2012), 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 must be imposed.

Conclusion

The Landlord has been successful. I grant the application for an additional rent increase of \$78.75 for a capital expenditure of \$18,900.00. The Landlord must impose this increase in accordance with the Act and the Regulation.

I order the Landlord to 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 17, 2025

Residential Tenancy Branch