



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

A matter regarding IDEAL HOLDINGS LTD. and
[enant name suppressed to protect privacy]

DECISION

Application Code ARI-C

Introduction

Ideal Holdings 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).

Ideal Holdings Ltd. represented by agents WL and AF (the Landlord) and tenants MR and JF 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 the evidence (the materials) on November 8, 2024 by emailing the tenants who previously provided an email address for service in writing and on November 11 by attaching individual packages to the remaining tenants. The Landlord submitted proof of service containing the photos of the packages attached to the front doors, the emails sent and the authorization for email service.

The Landlord did not receive response evidence.

The attending Tenants confirmed receipt of the materials and that they had enough time to review them.

Based on the convincing testimony of the Landlord and the proof of service, I find the Landlord served the materials in accordance with section 89(1) of the Act. Thus, I accepted service of the materials.

Application for Additional Rent Increase

The Landlord is seeking an additional rent increase for 3 expenditures totalling \$30,548.84:

1. Hot water tank ('Tank' - \$13,394.60)
2. Carpet (\$12,114.24)
3. Windows (\$5,040.00)

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 expenditures benefit all 20 rental units located in the building.

Based on the Landlord's undisputed testimony, I find the rental building has 20 rental units and that they all benefit from the expenditures, 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 he named as respondents in this application all the tenants that he intends to impose the additional rent increase.

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 Tenants on which the Landlord intends to impose the rent increase, per Regulation 23.1(3).

Expenditures incurred in the 18-month prior to the application

The Landlord submitted this application on October 27, 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 April 26, 2023 and October 26, 2024.

The Landlord testified the tank expenditure happened on June 20, 2023, carpet on February 16, 2024, and window on December 20, 2023 and submitted invoices due on these dates. The Landlord said that he paid the invoices on their due dates or within 30 days prior to those dates.

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

Expenditures not expected to occur again for at least 5 years

The Landlord affirmed the expenditures are not expected to occur again for at least 5 years, as the life expectancy of the tank is 15 years, carpets are 20 years and windows are 30 years.

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

Expenditures because of inadequate repair or maintenance

The Landlord testified the expenditures were not necessary because of inadequate repair or maintenance.

Based on the Landlord's convincing and undisputed testimony, I find the Landlord proved that the expenditures were not necessary because of inadequate repair or maintenance on the part of the landlord, per Regulation 23.1(5)(a).

Payment from another source

The Landlord stated that he is not entitled to be paid from another source for the expenditures 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 expenditures, per Regulation 23.1(5)(b).

Tank

The Landlord said the replaced tank was 14 years, beyond its useful life and that the new tank is more energy efficient than the previous one. The Landlord submitted photos of the old and new tanks, the invoices for the amount claimed and an inspection dated June 11, 2023. It states: "The existing domestic hot water system is a John Wood commercial hot water tank. The tank is 14 years old and looks to be in fair condition with no sign of water leaks. No indication on the last service on this tank but a complete replacement is highly recommended."

RTB Policy Guideline 37C states: “Major systems and major components are essential to support or enclose a building, protect its physical integrity, or support a critical function of the residential property. Examples of major systems or major components include, but are not limited to, the foundation; load-bearing elements (e.g., walls, beams, and columns); the roof; siding; entry doors; windows; primary flooring in common areas, heating systems, plumbing and sanitary systems...”

Based on the landlord’s convincing testimony, the photos and the invoice, I find the Landlord proved that he replaced the tank in June 2023 and the new tank achieves a reduction in energy use or greenhouse gas emissions.

I find the hot water tank a major component of the rental building, as it is integral to the rental building and provides the building’s users hot water, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of \$13,394.60 to replace the hot water tank is in accordance with Regulation 23.1(4)(a)(iii)(A), as the Landlord replaced the major component Tank and the new one achieves a reduction in energy use or greenhouse gas emissions.

Carpet

The Landlord affirmed the carpets replaced in the building’s common areas were over 20 years old and beyond their useful life. The Landlord submitted photos of the old and new carpets in the common areas and the invoices for the amount claimed.

Policy Guideline 40 states the useful life of carpet is 10 years.

I find the carpets replaced are a major component of the rental building, as they are integral to the rental building, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of \$12,114.24 to replace carpets in the common areas is in accordance with Regulation 23.1(4)(a)(ii), as the Landlord replaced the common area carpets that were beyond their useful life and the carpets are a major component.

Windows

The Landlord stated the windows replaced were original to the building built in 1925 and beyond their useful life. The Landlord submitted photos of the old and new windows replaced in the common areas and the invoices for the amount claimed.

Policy Guideline 40 states the useful life of windows is 15 years.

Based on the landlord's convincing testimony, the photos and the invoices, I find the Landlord proved that he replaced the windows in December 2023 and that the previous windows were beyond their useful life.

I find the windows replaced are a major component of the rental building, as they are integral to the rental building, per regulation 23.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of \$5,040.00 to replace the common areas windows is in accordance with Regulation 23.1(4)(a)(ii), as the Landlord replaced the windows that were beyond their useful life and the windows are a major component.

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 following expenditures:

Expenditure	Amount \$
Tank	13,394.60
Carpet	12,114.24
Windows	5,040.00
Total	30,548.84

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 20 specified dwelling units and that the amount of the eligible expenditure is \$30,548.84.

The Landlord has established the basis for an additional rent increase for expenditure of \$12.73 per unit (\$30,548.84/ 20 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 \$12.73 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: February 6, 2025

Residential Tenancy Branch