



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Application Code ARI-C

Introduction

The landlords 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).

The landlords' agent PC (the Landlord) and tenant TM (the Tenant) 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 parties each confirmed receipt of the Notice of Dispute Resolution Proceeding and Evidence (the Proceeding Package) and that they had enough time to review them.

Based on the testimonies, I find the parties served the Proceeding Package in accordance with section 89(1) of the Act.

Application for Additional Rent Increase

The Landlords are seeking an additional rent increase for a roof replacement (the Roof) in the amount of \$10,920.00.

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 Landlords' claim and my findings are set out below.

Number of specified dwelling units and benefited units

The Landlord stated the expenditure benefits the Tenant's main floor rental unit, and the basement rental unit, and that these are the only rental units located in the rental property.

Based on the Landlord's undisputed testimony, I find the rental property has 2 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 only for the Tenant, as the basement unit is empty.

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 undisputed and 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 November 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 May 26, 2023 and November 26, 2024.

The Landlord said the expenditure happened on June 25, 2023 and submitted an invoice due on that date. The Landlord affirmed that he paid the amount claimed 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 of the new roof is 30 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).

Expenditures because of inadequate repair or maintenance

The Landlord affirmed the expenditure was not necessary because of inadequate repair or maintenance.

Based on the Landlord's convincing and undisputed testimony, I find the Landlord proved that the expenditure was 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 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).

Roof

The Landlord said the prior roof was 30 years old, beyond its useful life, and leaking.

Policy guideline 40, published on March 6, 2012, indicates the useful life of a roof is 20 years. I am not referring to the updated version of this policy guideline because it was not available when the parties submitted this application.

Based on the Landlord's undisputed and convincing testimony and the invoice, I find the Landlord proved that he installed the Roof because the prior roof was beyond its useful life.

Policy guideline 37C indicates that a roof is a major system.

I find the Roof is a major system, as it is integral to the rental unit, per regulation 21.1 and Policy Guideline 37C.

Considering the above, I find that the expenditure of \$10,920.00 to replace the Roof is in accordance with Regulation 23.1(4)(a)(ii), as the Landlord replaced the Roof because it was beyond its useful life.

The Tenant affirmed the Roof had regular wear and tear and that it is not fair for the Tenant to pay for this expenditure.

Section 23.1 of the Regulation, as explained in this decision, allows landlords to seek additional rent increase for expenditures such as a new roof, even if it the prior roof regular wear and tear.

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 Roof in the amount of \$10,920.00.

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 2 specified dwelling units.

The Landlord has established the basis for an additional rent increase for the expenditure of \$45.50 per unit ($\$10,920.00 / 2 \text{ units} / 120$). 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 \$45.50. The Landlord must impose this increase in accordance with the Act and the Regulation.

The Landlord must serve the Tenant 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 18, 2025

Residential Tenancy Branch