



DECISION

Introduction

On January 4, 2025, the Landlord filed an application pursuant to s. 43 of the *Residential Tenancy Act* (the “Act”) and s. 23.1 of the *Residential Tenancy Regulation* (the “RTR”) for an additional rent increase because of capital expenditures.

Agent for the Landlord, S.B. attended the hearing at the scheduled hearing time. Tenant J.G. was present for the entire duration of the hearing on March 3, 2025.

Service of Notice of Dispute Resolution Proceeding and Evidence

S.B. testified that he served the notices of dispute resolution proceeding and evidence (the materials) on January 10, 2025 by attaching individual packages to the rental unit's front doors of all the named respondents. The Landlord submitted photographs and proof of service RTB-55 to confirm the service of the materials in accordance with his testimony.

Tenant J.G. confirmed receipt of the materials.

No Tenant submitted any documentary evidence for consideration in this proceeding.

Based on convincing testimony of the parties and the evidence before me, I find the Landlord served the materials in accordance with the *Act*. Thus, I accept service of the Landlord's evidence.

Issue 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 parties, 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 Landlord is seeking an additional rent increase for 5 expenditures in the total amount of \$72,552.26. The expenditures are:

1. Intercom replacement	\$3,622.50
2. Parkade gate replacement	\$16,658.25
3. Staircase LED lighting replacement	\$838.05
4. Installation of automatic door operator	\$2,516.08
5. Tile flooring replacement in common areas	\$48,917.38

Section 23.1 of the *RTR* sets out the framework for determining if a landlord can impose an additional rent increase. This is exclusively focused on eligible capital expenditures.

Statutory Framework

In my determination on eligibility, I must consider the following:

- whether a landlord made an application for an additional rent increase within the previous 18 months;
- the number of specified dwelling units in the residential property;
- the amount of capital expenditure;
- whether the work was an *eligible* capital expenditure, specifically:
 - to repair, replace, or install a major system or a component of a major system; and
 - undertaken:
 - to comply with health, safety, and housing standards;
 - because the system/component was either:
 - ❖ close to the end of its' useful life, or
 - ❖ failed, malfunctioning, or inoperative
 - to achieve either:
 - ❖ a reduction in energy use or greenhouse gas emissions; or
 - ❖ an improvement in security at the residential property
- and
- the capital expenditure was incurred less than 18 months prior to the making of the landlord's application for an additional rent increase
- and
- the capital expenditure is not expected to be incurred again within 5 years.

The Tenant bears the onus to show that capital expenditures are not eligible, for either:

- repairs or replacement required because of inadequate repair or maintenance on the part of the landlord;
- or
- the landlord was paid, or entitled to be paid, from another source.

Prior Application for Additional Rent Increase

There was no evidence that the Landlord made a prior application for an additional rent increase affiliated with capital expenditures within the previous 18 months.

S.B. stated the Landlord did not submit any prior application for an additional rent increase for capital expenditures within the previous 18 months.

Based on S.B.'s 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 section 23.1(2) of the *RTR*.

Number of specified dwelling units

For the determination of the final amount of an additional rent increase, section 21.1(1) of the *RTR* defines:

“dwelling unit” means:

- (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.

S.B. stated that there are 51 rental units within the building.

In accordance with section 21.1(1) of the *RTR*, I find there are 51 dwelling units, of which all 51 are eligible. S.B.'s testimony of 51 individual dwelling units is undisputed evidence.

Expenditures incurred in the 18-month prior to the application

The Landlord submitted this application on January 4, 2025.

Section 23.1(1) of the *RTR* 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 July 3, 2023 and January 3, 2025.

Policy Guideline 37C discusses when a payment outside the 18-month window is considered part of a project which qualifies for an additional rent increase:

A “capital expenditure” refers to the entire project of installing, repairing, or replacing a major system or major component as required or permitted (see section C.1). As such, 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.

A capital expenditure can take more than 18 months to complete. As a result, costs associated with the project may be paid outside the 18-month period before the application date. For clarity, the capital expenditure will still be eligible for an additional rent increase in these situations as long as the final payment for the project was incurred in the 18-month period.

Eligibility and Amounts

For the Landlord’s submitted expenditures 1 through 5 above, I address whether each expenditure was eligible, and whether each expenditure incurred in the 18-month period predicting the date on which the Landlord applied. I also make findings on whether each expenditure will be incurred again within 5 years.

1. Intercom Replacement

The Landlord submitted that the original intercom system installed in 2000 was not compatible with tenants that only used a cellphone. They submitted that parts of the original system were no longer available as the original system was obsolete. They further submitted that the new intercom system is compatible with both landlines and cellphones.

I find the reason for this work was for replacement of a major system. This was in order to maintain the residential property in a state of repair that complies with the health, safety, and housing standards required by law. I find that the original intercom was past its useful life, per Policy Guideline 40. I further find that the reason for this work was to improve in the security at the residential property, as set out in section 23.1(4)(a)(iii)(B) of the *RTR*.

I accept the Landlord’s evidence that the payment for the work was incurred on November 20, 2023. I find the expense occurred within 18 months prior to the Landlord making their application.

Given the nature of the work involved, I find this work will not reoccur, and there will be no expenditure incurred again within 5 years.

Considering the above, I grant the capital expenditure of \$3,622.50 for the replacement of the intercom system.

2. Parkade gate replacement

The Landlord submitted that the original parkade gate was installed in 2000 and that it was past its useful life. They submitted that the newly installed gate includes a light curtain to protect against accidental closing when a pedestrian or vehicle is under the gate. They further submitted that the new parkade gate features battery backup in case of a power outage.

I find the reason for this work was for replacement of a major system. This was in order to maintain the residential property in a state of repair that complies with the health, safety, and housing standards required by law. I find that the original parkade gate was past its useful life, per Policy Guideline 40. I further find that the reason for this work was to improve in the security at the residential property, as set out in section 23.1(4)(a)(iii)(B) of the *RTR*.

I accept the Landlord's evidence that the first payment for the work was incurred on June 26, 2023 and the final payment was made on September 4, 2023. I find the expense occurred within 18 months prior to the Landlord making their application.

Given the nature of the work involved, I find this work will not reoccur, and there will be no expenditure incurred again within 5 years.

Considering the above, I grant the capital expenditure of \$16,658.25 for the replacement of the parkade gate.

3. Staircase LED lighting replacement

The Landlord submitted that the LED lighting replacement was to achieve energy efficiency. They further submitted that the new lighting is brighter and safer for the tenants when they walk up and down the staircases.

I find the reason for this work was an upgrade in the lighting system. S.B. stated that this was to improve overall energy efficiency. As there is no evidence to the contrary, I find that the reason for this work was to achieve a reduction in energy use, as set out in section 23.1(4)(a)(iii)(A) of the *RTR*. I further find that this amounts to significant components of a major system, which cause them to be major components as defined in section 21.1 of the *RTR*.

I accept the Landlord's evidence that the payment for the work was incurred on February 10, 2024. I find the expense occurred within 18 months prior to the Landlord making their application.

Given the nature of the work involved, I find this work will not reoccur, and there will be no expenditure incurred again within 5 years.

Considering the above, I grant the capital expenditure of \$838.05 for the replacement of the intercom system.

4. Installation of automatic door operator

The Landlord submitted that this capital expenditure is an installation of a major component that supports a critical function of the entry doors and enables universal disability access to the building.

I find the reason for this work was for installation of a major system. This was in order to maintain the residential property in a state of repair that complies with the health, safety, and housing standards required by law, as set out in section 23.1(4)(a)(i) of the *RTR*.

I accept the Landlord's evidence that the first payment for the work was incurred on August 2, 2023 and the final payment was made on April 4, 2024. I find the expense occurred within 18 months prior to the Landlord making their application.

Given the nature of the work involved, I find this work will not reoccur, and there will be no expenditure incurred again within 5 years.

Considering the above, I grant the capital expenditure of \$,516.08 for the installation of automatic door operator.

5. Tile flooring replacement in common areas

The Landlord submitted that this capital expenditure includes removal of the original tiles, supply and installation of the new tiles. They submitted that the original tiles were installed in 2000 and that they were cracked and chipped in numerous places.

I find the reason for this work was for replacement of a major system. This was in order to maintain the residential property in a state of repair that complies with the health, safety, and housing standards required by law, as set out in section 23.1(4)(a)(i) of the *RTR*. I also find that the original tiles were past its useful life, per Policy Guideline 40.

I accept the Landlord's evidence that the payments for the work were incurred on February 21, March 4, and June 14, 2024. I find the expense occurred within 18 months prior to the Landlord making their application.

Given the nature of the work involved, I find this work will not reoccur, and there will be no expenditure incurred again within 5 years.

Considering the above, I grant the capital expenditure of \$48,917.38 for the replacement of the tile flooring in common areas.

The Tenant's submissions

J.G. stated that the battery backup feature of the newly installed parkade gate did not work during a power outage happened in August 2024 and that several tenants were trapped in the parking. She said that the newly installed intercom system was not working properly on several occasions.

J.G. submitted that she does not have problem paying her proportionate share for the five capital expenditures but is concerned whether any improvements/works can also be carried out in her rental unit.

I find J.G.'s submissions do not point to the Landlord's inadequate repair or maintenance of the capital expenditures but questioned their effectiveness. These are matters that do not affect the Landlord's eligibility for capital expenditure rent increase which is the focus of this hearing.

Conclusion

The Landlord has proven all the necessary elements for the five capital expenditures listed in their application.

I grant the Landlord's application for the additional rent increase, based on the five eligible capital expenditures of \$72,552.26. This is pursuant to section 43(1)(b) of the *Act*, and section 23.1(4) of the *RTR* referred to above.

Section 23.2 of the *RTR* sets out the formula to be applied when calculating the amount of the additional rent increase as the amount of the eligible capital expenditures, divided by the number of dwelling units, divided by 120. In this case, I found there are 51 specified dwelling units, and that the amount of the eligible capital expenditure is \$72,552.26.

Therefore, the Landlord has established the basis for an additional rent increase for capital expenditures of \$11.85 ($\$72,552.26 \div 12 \div 120$) per month, per affected tenancy. This is as per section 23.2 of the *RTR*. Note this amount may not exceed 3% of any Tenant's monthly rent, and if so, the Landlord may not be permitted to impose a rent increase for the entire amount in a single year.

I order the Landlord to serve all Tenants with this Decision, in accordance with section 88 of the *Act*. This must occur within two weeks of this Decision. The Landlord may serve each Tenant by posting a copy of the decision to each rental unit door. Within reason, the Landlord must also be able to provide a copy to any Tenant that requests a copy via email.

The parties may refer to RTB Policy Guideline 37C, sections 23.2 and 23.3 of the *RTR*, 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.

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: March 4, 2025

Residential Tenancy Branch