

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- An order for a capital expenditure rent increase under section 23.1 of the Residential Tenancy Act Regulation, B.C. Reg. 477/2003 (the Regulation).

At the beginning of the hearing the Landlord testified they are only bringing this application against 5 of the residential property's Tenants. They testified that this was because the residential property's other tenants had already consented to the rent increase.

Landlord S.B. attended the hearing for the Landlord.

No one attended the hearing for the Tenant.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

The Landlord testified they served the Tenants their Proceeding Package by posting it on the rental unit's door on March 26, 2025. The Landlord submitted a witnessed proof of service confirming their testimony.

I find that the Landlord posted the Proceeding Package on the rental unit's door on March 26, 2025, based on the Landlord's testimony and evidence.

Under section 90 of the Act, documents posted on the rental unit's door are considered received 3 days after they are sent.

Therefore, I find the Tenants are deemed to have received the Proceeding Package on March 29, 2025.

### **Service of Evidence**

The Landlord testified their evidence was served in the same package as their Proceeding Package.

Therefore, for the same reasons I found the Proceeding Package deemed received on March 29, 2025, I also deem the Landlord's evidence received on that date per 90.

The Residential Tenancy Branch did not receive any evidence from the Tenants.

## **Preliminary Issues**

### *Attendance*

The Tenants did not attend the hearing. If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party pursuant to Rule 7.3.

I conducted the dispute resolution hearing in the absence of the Tenants. I decided to proceed with the hearing having already determined the Tenants was served with the Proceeding Package. I also note the hearing was left open for 24 minutes after it was scheduled to begin giving the Tenants an opportunity to attend the hearing.

## **Issues to be Decided**

Is the Landlord entitled to an order allowing them a Capital Expenditure Rent Increase?

## **Background and Evidence**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The Landlord testified they have not successfully applied for a capital expenditure rent increase in the last 18 months.

The Landlord testified there were 90 specified dwelling units in the residential property affected by the capital expenditure.

The Landlord is claiming the following amounts for the following claims:

Expense	Last payment	Cost
Replace HVAC in common areas	September 30, 2023	\$ 89,000.00
Security cameras and Locks	February 14, 2025	\$ 42,327.00
Fire safety upgrades	March 5, 2025	\$ 38,690.04
Replacement of decking material	September 19, 2024	\$ 112,547.78
Carpet Replacement	February 28, 2025	\$ 62,852.41
Total		\$ 345,417.23

The Landlord provided invoices for each of these claims. They also testified to confirm the dates of each of the last payments.

The Landlord testified they did not include the goods and services tax (GST) in any of these claims because, as a charity, they can have any GST rebated. The Landlord is also not claiming other expenses related to these capital expenditures, as those were covered by their repair and maintenance budget.

Residential Tenancy Branch records show the Landlord made this application on March 15, 2025.

The Landlord testified that the residential property was built in 1988. This means that, at the time of this decision (2025), the property is at least 36 years old.

### *HVAC*

The Landlord testified that the residential property's HVAC system was original to the building. When they decided to replace it, none of the HVAC units had working air conditioning, and 2 of the 3 units were no longer operational.

The Landlord testified the project involved the following:

- installing 3 new HVAC units on the roof,
- supplying and installing new thermostats,
- repairing the air duct system,
- extensive power and control wiring, and
- installing new air ducts in the stairwell.

The Landlord testified they do not expect the capital expenditure to reoccur for at least 10 years.

### *Cameras and Locks*

The Landlord testified they installed a new camera system and magnetic locks to improve the residential property's security.

The Landlord testified they did not expect the cost to reoccur for at least 10 years.

### *Fire System Upgrades*

The Landlord testified that this upgrade involved:

- installing mini horns in each suite,
- drawing up a new fire safety plan,
- replacing old fire panels, and
- installing a lock box to help emergency personnel access the residential property.

The Landlord testified that the old fire panels were original to the residential property.

The Landlord testified that the mini horns were required because the residential property is primarily occupied by seniors, many of whom have hearing difficulties.

The Landlord provided a letter from a fire prevention officer from the local fire department. The letter states the Landlord is required by the BC Fire Code to install lock boxes in the residential property. The letter is dated March 24, 2022.

The Landlord testified they did not expect the cost to reoccur for at least 10 years.

#### *Deck Replacement*

The Landlord testified that each rental unit had its own deck. The decks were original to the residential property and were beginning to rot. All decks received new vinyl. Some required additional maintenance to ensure they were safe.

The Landlord also provided pictures showing the deck was rotting.

The Landlord testified they did not expect the cost to reoccur for at least 10 years.

#### *Carpets*

The Landlord testified they replaced the carpeting in the residential property's common areas. They testified the carpeting was deteriorating and had not been replaced during the 18 years they worked at the property.

The Landlord testified they did not expect the cost to reoccur for at least 10 years.

### **Analysis**

For the Landlord's application for a capital expenditure rent increase to be successful they must prove all of the following on a balance of probabilities:

1. That they have not made a successful application for an additional rent increase for capital expenditure in relation to the same rental units for at least 18 months;
2. That the capital expenditure was made for one of the reasons explained in section 23.1 (4) (1) of the Regulation;
3. That the capital expenditure was made within 18 months of making their application; and
4. That a capital expenditure for the same purpose is not expected to occur again for at least five years.

#### *Application*

Based on the Landlord's uncontradicted testimony, I find that the Landlord did not successfully apply for a capital expenditure rent increase within 18 months of this application.

#### *Purpose*

According to section 23.1 (4) (1) of the Regulation the following are the legally permissible purposes to apply for a capital expenditure rent increase:

“(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;”

Under section 21.1(1) a major system is a system integral to the residential property or is integral to providing services to occupants of the residential property. A major component is a component integral to the residential property or a major system.

Residential Tenancy Policy Guideline 37C also suggests that cosmetic upgrades connected to an eligible capital expenditure can be included in it.

### HVAC

I find that an HVAC system is a major system that provides a residential property with airflow and temperature control. Based on the Landlord’s testimony, I find the HVAC system was at least 34 years old when it was replaced in 2023. Residential Tenancy Policy Guideline 40 estimates the useful life of an HVAC system as 20 years. Based on this, I find the old HVAC system was past its useful life when the Landlord replaced it. Therefore, I find this capital expenditure falls under the purpose in section 23.1(4)(1)(ii) of the Regulation.

### Cameras and Locks

Residential Tenancy Policy Guideline 37C includes a security system in its list of major systems and components. I find a security system is a service provided to occupants of a residential property. Based on the Landlord’s testimony, I find the locks and cameras are integral parts of the residential property’s security system and are therefore major components. I also find that the installation of these items improved the residential property’s security. Therefore, I find this expenditure falls under the purpose in section 23.1(4)(1)(iii)(B) of the Regulation.

### Fire Systems Upgrades

I find a fire system is a major system because it provides residents with safety from fire. Based on the Landlord’s testimony, I find the upgrades involved in this capital expenditure are major components, as they are integral to protecting residents.

Residential Tenancy Policy Guideline 37C states:

“If an installation, repair, or replacement of a major system or major component better protects people and property at the residential property, the security of the residential property has been improved.”

Therefore, I find that all of the fire system upgrades, except for the replacement of old panels, fall under the purpose in section 23.1(4)(1)(iii)(B) of the Regulation.

Based on the Landlord’s testimony, I find the fire panels were at least 36 years old when replaced in 2025. Residential Tenancy Policy Guideline 40 estimates the useful life of electrical panels as 30 years. Based on this, I find the old fire panels were past their useful life. Therefore, I find that replacing them falls under the purpose in section 23.1(4)(1)(ii) of the Regulation.

#### Deck Replacement

Based on the Landlord’s testimony, I find that decks are a major system of the residential property because they provide each unit with an amenity. Based on the Landlord’s testimony and the photos, I find the decks were rotting. I find this means they were malfunctioning for the purposes of section 23.1(4)(1)(ii). Therefore, I find that replacing the deck materials falls under the purpose in section 23.1(4)(1)(ii) of the Regulation.

#### Carpets

Primary flooring, and I find the carpets are primary flooring, is listed as a major component in Residential Tenancy Policy Guideline 37C. Residential Tenancy Policy Guideline 40 estimates the useful life of carpeting as 12 years. Based on the Landlord’s testimony, I find the carpeting was at least 18 years old when replaced in 2025. Therefore, I find that replacing the carpets falls under the purpose in section 23.1(4)(1)(ii) of the Regulation.

#### *Made within 18 months of the Application*

Residential Tenancy Policy Guideline 37C suggests what determines if the capital expenditure was made within 18 months of the application, is when the final payment for the capital expenditure was made.

I find that the last payment for each of these projects was made less than 18 months before the Landlord’s application. I base this finding on the invoices and the Landlord’s testimony about when the final invoices were paid for each project.

#### *Not required for another 5 Years*

Based on the Landlord’s uncontradicted testimony, I find all of the capital expenditures are unlikely to reoccur within the next 5 years.

#### *Granted Rent Increase*

Therefore, I find there is a \$345,417.23 eligible capital expenditure.

The additional rent increase is the lesser of 3% of the current rent combined with the yearly permitted rent increase, or the  $[(\text{total eligible capital expenditure} \div \text{the number of specified dwelling units}) \div 120]$  under section 23.2 of the Regulation.

A specified dwelling unit, as defined by section 21.1(1) of the Regulation, is a living accommodation (whether or not it is vacant) located in a building (or residential property) that is impacted by the eligible capital expenditure. I find there are 90 specified dwelling units.

Therefore, I order the Landlord may raise the rent 3% of the current rent after the current yearly rent increase is added, or \$31.98  $[(\$345,417.23 \div 90) \div 120]$ , whichever is lower.

## **Conclusion**

The Landlord has been successful. I grant the application for an additional rent increase for a capital expenditure in the amount of \$345,417.23. 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: June 17, 2025

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Residential Tenancy Branch