

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).

E.K., A.A., and L.H. attended the hearing for the Landlord.

Tenant B.C. attended the hearing for the Tenant.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord testified they served the Tenants their Proceeding Packages by posting it on the rental units' doors on June 30, 2025. The Landlord submitted an affirmed affidavit of service confirming this.

I find that the Landlord posted the Proceeding Package on the rental units' doors on June 30, 2025, based on the Landlord's testimony and evidence.

Under the Director's standing order of February 17, 2023, a landlord may serve a Proceeding Package for this kind of application by posting it on a rental unit's door.

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 July 3, 2025.

Service of Evidence

The Landlord testified that they included a letter in their Proceeding Packages. The letter contained a link to a file sharing website with their evidence. The Landlord offered to send paper copies of their evidence by registered mail upon request. They also provided a copy of the letter sent to all Tenants.

I note the Landlord did not include an RTB-43, as required by Rule 3.10.4 of the *Residential Tenancy Branch Rules of Procedure* (the Rules). None of the Tenants have complained about being unable to access the file sharing website.

Despite the Landlord's failure, I find they made a good faith effort to serve their evidence. There is no evidence of access problems. Delaying the process would go against the value of efficiency noted in Rule 1 of the Rules.

Section 71 (2)(c) of the Act allows arbitrators to find documents are sufficiently served. I find the Landlord's evidence sufficiently served under section 71 (2) of the Act.

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

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.

While a Tenant did ask questions about the law, they did not contest any of the Landlord's submissions on the facts or law.

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

The Landlord is claiming \$59,640.00 for common area carpeting. The final payment was made on January 27, 2025. They provided invoices for this expense and a cheque made out on January 27, 2025.

The Landlord testified there were 42 specified dwelling units in the residential property affected by the capital expenditure.

The Landlord testified they replaced the common area carpeting for the hallways and stairs on the first, second, and third floors. The carpet was between 15 and 20 years old when it was replaced. They expect the carpeting to last for at least 5 years.

The Landlord provided before and after photos of the carpeting.

The Landlord provided a letter from Stay-Brite Inc dated August 28, 2024. It estimates the carpeting is between 15 and 20 years old and recommends replacing it.

Residential Tenancy Branch records show the Landlord made their application on June 11, 2025.

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.

I find the carpeting, as the primary flooring in the residential property's common area, is a major system integral to the residential property. This is supported by Residential

Tenancy Policy Guideline 37-C, which lists primary flooring as a major system or component.

I find the carpeting was at least 15 years old when it was replaced. I base this on the Landlord's uncontradicted testimony, and the Stay-Brite letter.

I find the carpeting had reached the end of its useful life. I base this on:

1. The recommendation in the Stay-Brite letter,
2. The pictures the Landlord provided, and
3. that Residential Tenancy Policy Guideline 40 states the expected useful life of carpeting is 12 years.

Therefore, I find the carpeting falls under purpose (ii).

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 the Landlord made the final payment for the carpeting on January 27, 2025. I base this on the Landlord's invoice.

I find the Landlord made their application on June 11, 2025, based on Residential Tenancy Branch records.

I find that final payment was made within 18 months of when the application was made.

Not required for another 5 Years

I find the Landlord is unlikely to need to make this expenditure again in the next 5 years. I base this on:

1. The Landlord's uncontradicted testimony, and
2. that Residential Tenancy Policy Guideline 40 states the expected useful life of carpeting is 12 years.

Granted Rent Increase

Therefore, I find there is a \$59,640.00 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 42 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 \$11.83 $[(\$59,640.00 \div 42) \div 120]$, 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 \$59,640.00. 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: August 20, 2025

Residential Tenancy Branch