

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).

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

Tenant D.Y., and Tenant S.B. 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.

Tenant D.Y. submitted evidence to the Residential Tenancy Branch. The Landlord testified they did not receive it, and the Tenant provided no evidence that it was served.

Under Rule 3.16, the respondent must be able to show they properly served their evidence. If they cannot, an arbitrator may refuse to consider said evidence or adjourn the hearing.

I find D.Y. has failed to satisfy me that their evidence was properly served. As I have found the D.Y. has failed to prove they their evidence was served I will disregard it.

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.

Tenant S.B. asked questions and shared opinions. However, they did not provide any testimony.

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

The Landlord is claiming a \$211,050.00 rent increase based on the following:

Expense	Date of final Payment	Ammount Claimed
Common Area Carpetting	January 27, 2025	\$ 54,600.00
Boiler	March 21, 2024	\$ 156,450.00
Total		\$ 211,050.00

The Landlord provided receipts, cheques and invoices for each of the expenditures. They also testified to all of the facts listed in the table.

The Landlord testified there were 61 specified dwelling units in the residential property affected by the capital expenditure.

Boiler

The Landlord testified that the boiler was over 35 years old. It was outdated and needed replacement. The final payment for the new boiler was made on March 21, 2024. The new boiler is more energy efficient. Since its installation, the Landlord's energy use has decreased by 70.1 gigajoules. They believe the boiler will last at least 5 years.

Tenant D.Y. testified that they believed the boiler needed replacement partly due to the Landlord's inadequate maintenance. Before the new boiler was installed, the previous boiler failed, and the residential property had no heat for 4 months. The Landlord had 5 plumbers examine the boiler and explain the issue before replacing it. D.Y. also stated that tenants are experiencing hot water problems with the new boiler.

The Landlord provided part of a report from a company called Pinchin. The report is dated March 31, 2022. It states the boiler was installed around 1987, making it about 35 years old.

The Landlord provided its Fortis BC statements from March 26, 2024, to December 26, 2024. Most information other than energy usage has been redacted.

The Landlord provided a cheque for the last payment for the boiler. It is dated March 22, 2024.

Carpeting

The Landlord testified that they replaced carpeting in the common areas of the residential property. The carpeting was between 15 and 20 years old at the time. It had deteriorated and needed replacement. The Landlord believe the new carpet would last at least 5 years.

D.Y. stated that they used to maintain the Landlord's carpeting as a floor layer. They believed the carpeting would not last 5 years. This was due to frequent hallway ceiling leaks. The Landlord would place rubber caps to stop the leaks until repairs were made. They did not place drop cloths on the carpet as they should have. As a result, the carpet could get wet and the glue holding it in place might come undone.

The Landlord provided before and after pictures of the carpeting.

The Landlord submitted a letter from Stay-Brite Inc. dated August 28, 2024. The letter confirms the carpeting is approximately 15 to 20 years old. It states the carpeting has received adequate periodic maintenance. As it has reached the end of its useful life, the company recommends replacing it.

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

Analysis

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

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 both the installation of the boiler and the common carpeting meet the purpose outlined in section 23.1 (4) (1) (ii). I find both the carpeting and boiler had reached the end of their useful life before being replaced.

Boiler

I find a boiler is a major component required to provide heat to the residential property.

I find the boiler was installed in 1987, based on the report from Pinchin. I find the boiler had reached the end of its expected useful life. This is supported by the report from Pinchin and Residential Tenancy Policy Guideline 40, which states the expected life of a boiler is 25 years.

Carpeting

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, based on the letter provided by Stay-Brite Inc. I find the carpeting had reached the end of its useful life. I base this on:

1. Stay-Brite Inc's assessment,
2. Residential Tenancy Policy Guideline 40 states the expected useful life of carpeting is 12 years, and
3. The Landlord's photos.

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 final payment for the common area carpeting was made on January 27, 2025, based on the cheque the Landlord submitted. I find the final payment for the boiler was made on March 22, 2024, based on the invoice provided. This is despite the Landlord's testimony that the final payment was made on March 21, 2024.

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

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

Not required for another 5 Years

The Landlord argued that, since the expected useful life of the carpeting and boiler is over 5 years, the expenditures are not expected to reoccur within that period.

D.Y. testified that the Landlord has historically maintained the carpeting poorly. They also claimed the new boiler is already experiencing problems.

I found D.Y.'s testimony on carpet maintenance carried limited weight. The Stay-Brite letter provided an expert opinion that there had been adequate carpet maintenance. D.Y.'s testimony is not supported by other evidence. I found the Stay-Brite letter more credible, due to how Stay-Brite are not a party directly involved in this dispute.

Regarding the boiler, even if D.Y.'s testimony is accurate, a system having problems may indicate a need for regular maintenance rather than replacement. Since the boiler was recently installed, I find it more likely that maintenance and repairs are the issue in this case.

Furthermore, I find the Landlord's replacement practices suggest they are more likely to delay replacement beyond the estimated useful life rather than replace items early.

Based on the expected lifespan of carpets and boilers under Residential Tenancy Policy Guideline 40, I find the Landlord is unlikely to incur these expenses again within the next 5 years.

Inadequate Maintenance

If the Tenant proves one of the following to be true, I must dismiss the Landlord's application for an additional rent increase for capital expenditure:

1. The capital expenditure was for a repair or replacement caused by the Landlord not performing adequate repair or maintenance; or
2. The Landlord has been paid or is entitled to be paid for the capital expenditure through another source.

D.Y. argued that the previous boiler had to be replaced due to inadequate or improper maintenance.

I find this claim has not been proven on a balance of probabilities. The boiler was over 35 years old, well beyond its expected useful life. According to D.Y., the Landlord had 5 plumbers assess the boiler before replacing it. This evidence supports the conclusion that the boiler's age, not the Landlord's failure to repair it, led to its replacement.

Granted Rent Increase

Therefore, I find there is a \$211,050.00 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 61 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 \$28.83 $[(\$211,050.00 \div 61) \div 120]$, whichever is lower.

Conclusion

I grant the application for an additional rent increase for a capital expenditure in the amount of \$211,050.00. 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 19, 2025

Residential Tenancy Branch