

DECISION

Introduction

On June 18, 2025, the Landlord filed an application pursuant to section 43 of the Residential Tenancy Act (the “Act”) and section 23.1 of the Residential Tenancy Regulation (the “RTR”) for an additional rent increase for the capital expenditure.

The Landlord, the Landlord’s support persons, K.F., R.Y., C.G. and D.M., and Tenants A.A., J.G. N.M., A.H. and G.C. attended the hearing at the scheduled hearing time.

Service of Notice of Dispute Resolution Proceeding and Evidence

The Landlord testified that they served the notices of dispute resolution proceeding and evidence (the Materials) on June 24, 2025 on all the named Tenants by registered mails. The Landlord uploaded the Canada Post customer receipts with tracking numbers to confirm the services.

All the tenants who attended the hearing confirmed receipt of the Materials.

Based on the testimony of the parties and the Canada Post receipts, I find the Landlord served the Materials in accordance with the Act. Thus, I accept service of the Landlord’s evidence.

Given the Landlord acknowledged receipt of evidence from Tenants A.A., J.G. N.M. and A.H., I have accepted their documentary evidence and will consider it when rendering this decision.

Issue to be Decided

Is the Landlord entitled to impose an additional rent increase for the capital expenditure?

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 in the total amount of \$478,119.84 for an exterior project consisting of the replacements of balconies, soffits, windows, roof flashings, siding and exterior LED Lighting, and the painting of balcony railings.

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 Tenants bear 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 the capital expenditure within the previous 18 months.

The Landlord stated that they did not submit any prior application for an additional rent increase for the capital expenditure within the previous 18 months.

Based on the Landlord'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.

The Landlord stated that there are 33 rental units within the building. They said that they intend to impose rent increase on only 22 of them, which are the named respondents, because the tenants of the other 11 rental units moved into the building after all the substantial works were completed.

In accordance with section 21.1(1) of the RTR, I find that there are 33 dwelling units to be used for calculation of the additional rent increase.

Eligibility of the Works of the Exterior Project

Balconies, Soffits, Windows, Roof Flashings, and Siding Replacements

The Landlord stated that the balconies, soffits and windows were original, and the building was built in 1981. They stated that there were a lot of rotten areas in the balconies and soffits, and the windows were in poor condition that they could not be opened and closed easily. They said that the roof was replaced 15 to 20 years ago but the roof flashings were not and that they had to replace them due to the siding work because the original ones did not fit over top of the siding.

The Landlord stated that the original siding was wood and stucco. In 2003, they used vinyl siding to cover only the wood siding but not the stucco. They stated that the siding was in poor condition that some areas were blown off on windy days and some areas were rotten due to water ingress. Therefore, they decided to replace the siding to waterproof the entire building.

Policy Guideline #40 indicates the longest useful life of balconies is 40 years and windows is 35 years. It does not indicate the useful life of soffits and roof flashings. However, I note that the useful life of a metal roof is 35 years in the guideline. The useful life of vinyl siding is 30 years.

Based on the Landlord's testimony and the evidence before me, I find the Landlord proved that they replaced the balconies, soffits, windows, roof flashings and siding because they were beyond or close to the end of their useful life and malfunctioning.

Policy Guideline 37C states that the Regulation defines a "major system" as an electrical system, mechanical system, structural system, or similar system that is integral to the residential property or to providing services to tenants and occupants. A "major component" is a component of the residential property that is integral to the property or a significant component of a major system. Major systems and major components are essential to support or enclose a building, protect its physical integrity, or support a critical function of the residential property.

I find that the balconies, soffits and windows, roof flashings, and sidings are a structural system and form a component of the building envelope and that a building envelope is integral to the residential property, per section 21.1 of the RTR and Policy Guideline 37C.

Considering the above, I find that the reason for replacing the balconies, soffits, windows, roof flashings, siding was to repair a major system that was past or close to the end of its useful life and malfunctioning in accordance with section 23.1(4)(a)(ii) of the RTR.

Exterior LED Lighting Replacement

The Landlord submitted that the exterior LED lighting replacement was to achieve energy efficiency and improve the security on the property.

I find the reason for this work was an upgrade in the lighting system. The Landlord stated that this was to improve overall energy efficiency and security. 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.

Painting of Balcony Railings

The Landlord stated that the balcony railings were original and there were a lot of damages due to wear and tear over the years. However, since they were still in function, the Landlord decided to paint them instead of full replacement. They said that the paint would afford protection to the railings, making them more durable for the long term.

Policy Guideline #37C states that repairs should be substantive rather than minor. For example, replacing a picket in a railing is a minor repair, but replacing the whole railing is a major repair. Cosmetic changes are not considered a capital expenditure. However, a cosmetic upgrade will qualify if it was part of an installation, repair, or replacement of a major system or component.

Policy Guideline #40 indicates the useful life of metal railings is 40 years.

I accept the Landlord's submissions that replacement of the railings was unnecessary and relatively costly, and they have painted them as an alternative.

Based on the Landlord's testimony and the evidence before me, I find the balcony railings were past their useful life and failed due to the wear and tear. I find the solution adopted by the Landlord is an acceptable alternative to a full replacement of the railings.

I find that the railings are significant components of the balconies which form a component of building envelope, per section 21.1 of the RTR and Policy Guideline 37C.

I find the reason for this work was to repair a major component that was past its useful life and malfunctioning, as set out in section 23.1(4)(a)(ii) of the RTR.

Expenditures incurred in the 18-month prior to the application

The Landlord submitted this application on June 18, 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 December 17, 2023 and June 17, 2025.

I accept the Landlord's testimony and their evidence that the payments for the exterior project were made between April 10, 2024 and March 14, 2025. I find the expenses occurred within 18 months prior to the Landlord making their application.

Expenditure not expected to occur again for at least 5 years

Given the nature of the works of the exterior project involved, I find the works are not expected to be incurred again for at least 5 years.

The Tenants' submissions

Tenants A.A. and J.G. argued that most of the replacement works were purely cosmetic as the original major systems or major components were functioning well. They stated that the paint on the balcony railings is not of good quality that it has already begun to peel off. They also stated that the replacement of windows has not reduced the greenhouse emissions as their hydro bills remain the same as before. They further stated that the exterior project has taken so long causing inconvenience and annoyance to the tenants.

Tenants N.M. and A.H. submitted that they are not benefited from the exterior project as their unit does not have a balcony. They stated that the original windows were functioning well that they did not have to be replaced.

As previously stated, I am satisfied that the balconies, soffits, windows, roof flashings, sidings and balcony railings were past or close to the end of their useful life and in poor condition. As such, I find the replacements of the balconies, soffits, windows, roof flashings and sidings, and the painting of the balcony railings were in accordance with section 23.1(4)(a)(ii) of the RTR. As such, I do not agree with Tenants A.A., J.G, N.M. and A.H. that the replacement works were cosmetic.

While I acknowledge the inconvenience that Tenants A.A. and J.G. might have had during the construction works and their concerns over the effectiveness of the completed works, the RTR limits the reasons which a tenant may raise to oppose an additional rent increase for capital expenditure, and I find these submissions are insufficient under the RTR to result in dismissing the Landlord's application.

I do not agree with Tenants N.M. and A.H. that they are not benefited from the exterior project because the envelope of the building affects every tenant as water ingress from balconies above their unit can impact theirs. I find that the exterior project affects every tenant in the building so the rent increase for capital expenditure applies to all tenants.

Considering all the above, I grant the capital expenditure of \$478,119.84 for the entire exterior project of the building.

Conclusion

The Landlord has proven all the necessary elements for the capital expenditure.

I grant the Landlord's Application for the additional rent increase, based on eligible capital expenditure of \$478,119.84. 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 find there are 33 specified dwelling units, and that the total amount of the eligible capital expenditure is \$478,119.84.

Therefore, the Landlord has established the basis for an additional rent increase for capital expenditure of **\$120.74** ($\$478,119.84 \div 33 \div 120$) 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. I authorize the Landlord to serve each tenant by posting a copy of the decision to each rental unit door.

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: August 1, 2025

Residential Tenancy Branch