

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).

Landlord M.E.C. attended the hearing for the Landlord.

Tenant J.A., Tenant E.R., Tenant A.M. 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 or serving it in person August 1, 2025. The Landlord submitted a witnessed proof of service confirming their testimony.

I find that the Landlord posted the Proceeding Package on the rental units' doors or delivered them in person on August 1, 2025, based on the Landlord's testimony and evidence. I find the Proceeding Package's delivered in person were received on August 1, 2025.

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 Packages posted on their door on August 4, 2025.

Service of Evidence

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

Therefore, I find the evidence delivered in person were received on August 1, 2025. I find the evidence that was posted on the Tenants' doors deemed received on August 4, 2025.

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

Preliminary Matters

Adjournment

At the hearing, I said I would consider adjourning to allow the Landlord to submit more evidence. My main concern was whether the Landlord had a fair chance to support their case. This concern arose because the Tenants had not submitted anything before the hearing to show their concerns with the Landlord's application.

After further reflection, I find that I have enough evidence to decide this case. An adjournment would delay resolution and harm both parties' interest in a timely decision.

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 48 specified dwelling units in the residential property affected by the capital expenditure.

The Landlord is applying for a rent increase for \$68,329.41 in expenditures. They provided the following details with invoices, and payment records to support them:

Expenditure	Date of Final Payment	Amount Claimed
Parking Lot	September 16, 2024	\$63,577.50
Boiler	September 16, 2024	\$2,161.91
Drain Pipe	July 4, 2025	\$2,590.00
Total		\$68,329.41

Parking Lot

K.S., the Landlord's representative, said the building was built in 1974 and bought by the Landlord in 2011. The pavement had not been replaced since then. K.S. said the pavement had deteriorated and become unsafe. The painted parking stall indicators had

faded and were no longer visible. K.S. described the paving as a major system component needed for the property's function. The repairs were done in stages. The final payment was made on July 18, 2024.

Tenant A.R. raised concerns about the paving quality. A.R. said the curbing was poorly built and is breaking apart. The curbing did not set properly and stays soft, denting when hit by vehicles. A.R. described safety issues, such as drainage covers not raised to the asphalt level, which caused people to trip and twist their ankles. A.R. believed the paving would need to be redone soon due to poor workmanship.

Tenant J.A. confirmed the paving was done within the last 18 months but said residents were not satisfied. J.A. said a large pothole at the unit entrance was filled before August 2024, but the overall paving was not properly completed. J.A. said the paving did not reach the road and a recurring sinkhole at the entrance was not properly repaired.

Tenant A.M. said the paving was incomplete and poorly done. A.M. described holes forming soon after the work was finished. A.M. said puddles formed around poles in the covered parking area due to broken pavement. A.M. said the pavement did not reach the road and a recurring sinkhole at the entrance was not fixed. A.M. said the sinkhole reappears each year and damages vehicles. A.M. noted the area around the poles was cracked and uneven, making it hard to walk to vehicles without stepping in puddles. A.M. said the paving company did not properly investigate or fix the underlying issues.

The Landlord submitted pictures of the residential property's parking lot. They showed the parking lot before and after the work was completed.

Boiler and Drain Pipe

K.S. testified to the following:

- K.S. said the boiler relief valve was malfunctioning and constantly releasing water. A plumber was hired to replace the valve. The valve is a safety device that releases pressure when it exceeds safe limits. K.S. said this was needed to prevent system damage. K.S. also discussed replacing the reduced pressure principal backflow preventer (RPBP). This device stops contaminated water from flowing back into the clean water supply. It is critical for boiler feed lines due to the risk of chemical and pressure-related contamination.
- K.S. described a separate issue with a collapsed drain pipe that caused basement flooding. The repair involved cutting through concrete to reach and replace the pipe. K.S. said these components are part of the building's major water system and should be considered together in the application.

A.R. questioned whether replacing the RPBP resolved the water quality issues. A.R. said black mould had been reported in the water system and that pipe bursts were frequent. A.R. doubted the repairs were enough and suggested poor maintenance may

have caused the problems. A.R. also questioned if the backflow preventer worked properly and whether the system was tested.

J.A. raised concerns about the boiler filtration system and its role in preventing mould. J.A. asked if the RPBP would stop contaminated water from re-entering the system and address health and safety concerns. J.A. said they experienced mould and poor water quality in their unit and submitted multiple complaints. J.A. noted it is hard to tell if the boiler replacement fixed heating issues because the work was done in summer.

A.M. described ongoing problems with heating and water pressure. A.M. said their unit often lacked heat and the temperature controls did not work properly. A.M. said maintenance staff had to adjust the heat manually each season. A.M. reported flooding in storage areas and repeated pipe bursts. A.M. linked these problems to the backflow preventer and questioned whether the repairs fixed the root issues.

Residential Tenancy Branch records show the Landlord made their application on July 18, 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 parking lot is a major system because it provides parking services to the residential property. I find the boiler and drain pipe are major components of the residential property’s water system. I base this on how the boiler heats the water and the drain pipe prevents flooding.

I find the parking lot had not been repaved since 1974 based on the Landlord’s unchallenged testimony. I find it had reached or was near the end of its useful life. I base this on the parking lot’s age and photos. Both show that a major repair was necessary to ensure the parking lot continued to function. Therefore, I find that the project falls under the purpose outlined in section 23.1 (4) (1) (ii) of the Regulation.

I find the drain pipe was failing and needed repair. I base this on the Landlord’s testimony that it no longer stopped flooding, which is its purpose. Therefore, I find the project falls under the purpose outlined in section 23.1 (4) (1) (ii) of the Regulation.

I find the boiler repairs were necessary because it was malfunctioning. Both the Landlord and the Tenant said there were several problems. These included heating issues and the release of unsafe water into the system. Therefore, I find the project falls under the purpose outlined in section 23.1 (4) (1) (ii) of the Regulation.

A repair does not need to fix every problem in the residential property to qualify as a capital expenditure. The boiler can still qualify as an eligible capital expense even if it does not fully resolve the black mould issue. The Landlord may still need to address that issue, but this is separate from whether the boiler qualifies as a capital expense.

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 their application on July 18, 2025, based on Residential Tenancy Branch records.

I find the final payments for the projects occurred as the Landlord claimed (see the table in background and evidence). I base this on the payment information they provided.

I find that the final payments for all three projects were made within 18 months of when the application was made.

Not required for another 5 Years

In this part of the application, the Landlord must prove the expenses are not likely to recur within five years. Residential Tenancy Policy Guideline 37C suggests that one of the primary reasons for this requirement is to ensure that routine repairs do not qualify as capital expenditures.

I find that an expense being unlikely to recur for five years does not mean regular repairs and maintenance will not be needed. If this were the case, I find the Regulation would not differentiate capital expenditures from regular maintenance in section 23.1 (5).

This issue was disputed in relation to the boiler and paving projects.

The Landlord said the repairs and replacements were effective. Based on the expected useful life of what was repaired or replaced, the expenses should not recur for at least 5 years. They also said a paved parking lot should last at least 10 years.

The Tenants said the Landlord's work was low quality or improperly done. They claimed the parking lot paving was already coming apart. They also questioned whether the boiler could heat the residential property. J.A. asked if the boiler provided proper heat. A.M. said heating issues continued after the replacement. Based on these concerns, they argued the work would likely need to be redone.

I find the useful life of the parking lot's pavement is 10 years based on the Landlord's uncontested testimony. This is shorter than the lifespan of asphalt or concrete driveways under Residential Tenancy Policy Guideline 40. I find the useful life of a boiler is 25 years and a pipe is 30 years. These findings are based on estimates in Policy Guideline 40.

I find the drain pipe project will likely last 5 years. I base this on the 30-year useful life of pipes. The Tenants did not comment on the quality of work for this specific project.

I find it is more likely than not that the parking lot project will not recur within 5 years. I base this on the Landlord's testimony, which was supported by invoices and pictures. I found the Landlord's testimony more credible than the Tenant's as it was supported by invoices and pictures. The Landlord hired professionals, and the result appears consistent with their claims. The Tenants' testimony was not supported by documents. Since all parties have a financial interest in the outcome, I find the testimony with supporting evidence more credible.

I find the boiler project will likely last 5 years. I base this on the standard boiler's useful life. A.M. said heating problems continued after the boiler was fixed. Even if these problems occurred, there is no evidence they were caused by the boiler. There is also no evidence that fixing the problem would require a major repair or replacement, rather than regular maintenance.

Regular Maintenance

Besides what the Landlord must prove, if the Tenant proves any of the listed conditions, I must dismiss the Landlord's application for a rent increase due to 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.

The Tenants said the boiler and paving projects may have resulted from the Landlord not doing regular maintenance. They said proper attention to a sinkhole issue may have prevented the repair. Aside from this example, they did not explain how maintenance could have avoided the capital expenditure.

I find the Tenants' testimony alone does not prove a sinkhole exists. None of the Tenants said they had expertise in identifying sinkholes.

I find the Tenants did not prove the parking lot project could have been avoided by regular maintenance. I have already found given the parking lot's age it had likely come to the end of its useful life. Therefore, I find that repairing it would have been insufficient to allow it to continue functioning properly.

I find the Tenants have not proven that regular maintenance could have avoided the boiler project. The invoices show that professionals said new parts were needed. I find the Tenants' concerns about other building problems do not outweigh these professional opinions.

Granted Rent Increase

Therefore, I find there is a \$68,329.41 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 48 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 \$11.86 $[(\$68,329.41 \div 48) \div 120]$, 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 \$68,329.41. 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: September 17, 2025

Residential Tenancy Branch