

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).

M.D., J.L., and M.Q. attended the hearing for the Landlord.

Tenant E.H.J., Tenant B.M., Tenant A.B.2, Tenant W.M., Tenant B.T., Tenant M.H., Tenant M.G., Tenant M.K. 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 August 22, 2025. The Landlord submitted a certified proof of service confirming their testimony.

I find that the Landlord posted the Proceeding Package on the rental units' doors on August 22, 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 August 25, 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 August 25, 2025, I also deem the Landlord's evidence received on that date per section 90.

The Landlord confirmed receiving all evidence the Tenants submitted to the Residential Tenancy Branch by email, except for M.K. and A.N.'s. The Landlord also confirmed giving Tenants permission to serve documents by email.

I find all Tenants' evidence was properly served and available for consideration, except for M.K. and A.N.'s.

M.K. and A.N. did not provide proof of service confirming proper delivery of their evidence. At the hearing, M.K. testified they may not have properly served their evidence.

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 M.K. and A.N. did not prove their evidence was properly served. They provided no evidence that the Landlord received it. Because they failed to prove service, I will disregard their evidence.

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 is claiming \$602,531.75 for remediating the residential property's exterior wall (the "Project"). They testified that the last payment for the Project was made on January 14, 2025. They provided an e-transfer invoice confirming this.

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

M.D., the Landlord's counsel, gave the following testimony on the Landlord's behalf:

- The Landlord's application concerned a capital expenditure to replace the eastern exterior wall. The project's initial contractor, I.C., started the work. The project was later re-tendered and completed by E.G.
- M.D. stated that only the eastern wall required full replacement. They said the wall was not exposed for years, as some Tenants claimed. They referred to timestamped photographs submitted by B.M. These showed that only one corner was exposed and covered with a weather-resistant membrane. M.D. argued that the Tenants' claims about prolonged exposure and damage were incorrect.

- The Landlord chose to replace the entire eastern wall instead of doing localized repairs. M.D. stated that the building permit and construction contract were dated January 31, 2024. They explained that the increased cost was due to concealed conditions and change orders during construction. They noted that the original contract price was an estimate and that cost increases are common in construction projects.
- M.D. addressed concerns about unequal benefit. They argued that all tenants live within the same building envelope and benefit from the capital expenditure. They cited the definition of “specified dwelling unit” in the Residential Tenancy Regulation. This definition includes all units in the building where the expenditure occurred. M.D. stated that excluding some units would be unfair and inconsistent with the legislation.
- The building was constructed in 1965. The wall system was original to the residential property.

W.M. stated that two corners of the eastern wall were exposed for a long time, not just one. W.M. clarified that S.K.’s evidence referred to both corners being open and exposed. W.M. expressed concern about ongoing rent increases.

M.K. testified that a stop work notice was posted on December 20, 2021, after demolition began. M.K. stated that both corners of the building were exposed and not covered, contradicting the Landlord’s claim.

B.M. disputed the Landlord’s claim that only one corner was exposed. B.M. stated that both corners of the eastern wall were open and that the weather-resistant membrane was ineffective. B.M. referred to photographs showing the exposed wall and increased electricity bills due to poor insulation. B.M. also described insect infestations and poor workmanship. B.M. argued that the Landlord failed to plan and budget properly. They stated that tenants should not bear the financial burden of the Landlord’s mismanagement.

B.T. stated that the building was poorly maintained. They said the initial contractor was stopped by WorkSafeBC and their local government due to improper procedures. B.T. argued that the Landlord should have budgeted for repairs years earlier. They stated that tenants should not be responsible for costs resulting from the Landlord’s failures.

A.B. referred to evidence submitted by S.K., including a photo dated October 1, 2022, showing an uncovered wall and a stop work order from December 20, 2021. A.B. stated that the wall remained uncovered for 10 months. They argued that the Tenants’ concerns were valid and supported by evidence.

M.H. stated that their unit is at the front of the building and did not benefit from the wall repairs. They argued that no renovations, window replacements, or safety improvements were made to their unit. M.H. stated that many tenants did not benefit from the work and should not be included in the rent increase.

S.N.B. submitted an undated written statement. They disputed the Landlord's request for an additional rent increase. They argued that the capital expenditures resulted from long-term neglect of property maintenance. S.N.B. provided photographs showing deteriorated building conditions, poor repair work on a patio door lock, and a violation notice from their local government for unpermitted construction. They stated that these costs are avoidable and should not be passed on to tenants.

A.O. submitted an undated written statement. They began their lease on February 1, 2025, after the Landlord completed the capital expenditures. They argued that these costs should already be reflected in their rent. A.O. described a delayed response to a maintenance request submitted in June 2025. They stated that the repair work was poor and did not address black mould. They requested that the rent increase not apply to their tenancy.

S.K. submitted an undated written statement. They opposed the Landlord's application for an additional rent increase. They cited five concerns: delayed repairs after a stop-work order, inflated costs from ignored engineering advice, misrepresentation of the repair timeline, unequal benefits to tenants, and a pattern of neglect in maintenance. S.K. provided examples of heat failures and unsafe windows in their unit. They argued that the Landlord's actions do not justify a rent increase.

D.B. submitted a written statement dated September 29, 2025. They stated that the capital expenditures do not benefit their unit and do not justify a rent increase. They argued that the work did not improve their unit's condition or services.

F.B. submitted a written statement dated September 29, 2025. They stated that the capital expenditures did not benefit their unit. They argued that the work did not improve safety or usability and that they received no upgrades.

E.W. submitted a written statement dated September 29, 2025. They argued that the Landlord's claimed expenditures did not benefit their unit and should not justify a rent increase. They stated that the work did not improve their unit and that they received no upgrades.

E.O. submitted a written statement dated September 29, 2025. They cited delayed repairs after a stop-work order, inflated costs from ignored engineering advice, and misrepresentation of the repair timeline. E.O. argued that only a small portion of the building received upgrades and that they did not benefit.

The Landlord provided repair records for the residential property and invoices for the Project.

The Landlord provided a stamped letter from D.C. dated August 1, 2025. D.C. is an engineer who worked on the Project. D.C.'s firm recommended a major repair of the east wall after inspecting it. They stated that the residential property was constructed in 1965. They also stated that the east wall's useful life of 30 years had passed. They believe the expense will not be required again for another 30 years.

B.M. submitted several photos of the rental unit.

Residential Tenancy Branch records show the Landlord made their application on August 12, 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 Project meets one of the purposes allowed under the Regulation. I find the exterior walls are integral to the residential property. I find the walls had exceeded their useful life, based on D.C.'s letter. D.C.'s estimate matches Residential Tenancy Policy Guideline 40's estimate for stucco walls. Therefore, I find the Landlord has proven that the Project's purpose falls under 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 the Landlord made their application on August 12, 2025, based on Residential Tenancy Branch records.

I find the final payment was made on January 14, 2025, based on the e-transfer invoice.

Therefore, I find the Project was completed within 18 months of the application date.

Not required for another 5 Years

I find the Landlord has shown that an expenditure like the Project is unlikely to occur again within 5 years. I base this on D.C.'s letter. I found the letter compelling. It states that the exterior wall has a useful life of 30 years, so the expense should not be needed again for that period. I also note that the Landlord waited about 55 years to make this major expense.

Several Tenants argued that the interior wall of the residential property was exposed and inadequately protected during the Project. Even if this is true, I find it unlikely that D.C.'s estimate would be wrong by 25 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.

I find that under section 23.1 of the Regulation; it is irrelevant whether the Landlord efficiently managed the Project. In making this finding I also find that “inadequate repair and maintenance” does not mean cost efficient repairs and maintenance. I base this on how “inadequate” refers to quality not cost.

The Regulation states that if the Landlord meets section 23.1’s criteria, I must grant the application unless an exception applies. I have no discretion to consider other factors.

Many of the Tenants’ submissions on the matter related to how the Project itself was conducted, rather than how the Landlord’s inadequate maintenance before the Project caused it. Section 23.1 (5) (a) refers to the cause of the expenditure, the Project, rather than if an expenditure could have been more efficient. Therefore, I found the Tenants various submissions on how the Project was conducted, such as the open exterior wall or stop-work order, to be irrelevant to this application.

Granted Rent Increase

Therefore, I find there is a \$602,531.75 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 [(total eligible capital expenditure÷ the number of specified dwelling units) ÷120] under section 23.2 of the Regulation.

The Landlord testified that there are 42 units in the residential property. This was not disputed. Some Tenants argued that units not located on the east side should not be included in the application.

The Regulation gives the following definition of specified dwelling 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.

I find that both definitions apply to the rental units included in the Landlord’s application. The exterior envelope is a major system essential to a residential property, not an amenity for specific units. A residential property needs an exterior envelope to protect its structure and interior. If part of the envelope is allowed to deteriorate, it will eventually cause problems throughout the residential property. Therefore, I find that rental units on the other side of the property are also affected by repairs to the eastern wall.

Therefore, I order the Landlord may raise the rent 3% of the current rent after the current yearly rent increase is added, or \$119.55 $[(\$602,531.75 \div 42) \div 120]$, whichever is lower.

Should \$119.55 be more than 3% of the current rent after the current yearly rent increase is added, the Landlord may impose another additional rent increase for up to 2 more phases. During each phase the Landlord must deduct the previous rent increase for the capital expenditure from \$119.55. The Landlord may then impose the lesser amount of either the remainder or 3% of the current rent after the current yearly rent increase is added. Each phase must take place at least 12 months after the previous one. The Landlord must serve the Tenant an RTB-7 Notice of Rent Increase at least 3 months before a new rent increase is imposed. This is all required under section 23.3 of the Regulation.

Conclusion

The Landlord has been successful. I grant the application for an additional rent increase for a capital expenditure in the amount of \$602,531.75. 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.

This interim 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: October 27, 2025

Residential Tenancy Branch