



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Code ARI-C

Introduction

This hearing dealt with the application pursuant to the Residential Tenancy Act (the Act) and the Residential Tenancy Regulation (the Regulation) for an additional rent increase for capital expenditure, under section 23.1 of the Regulation.

Landlord ST (the Landlord) and tenant CP (the Tenant) attended the hearing. The Landlord represented landlord KB. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The parties each confirmed receipt of the Proceeding Package.

Based on the testimonies I find that each party was served with the Proceeding Package in accordance with section 89 of the Act.

Issue to be Decided

Are the Landlords entitled to impose an additional rent increase for capital expenditure?

Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the Landlords' claims and my findings are set out below. I explained rule 7.4 to the attending parties; it is the Landlords' obligation to present the evidence to substantiate the application.

Both parties agreed the ongoing tenancy started on July 1, 2021. Monthly rent today is \$1,198.00, due on the first day of the month. The Landlord collected and holds a security deposit of \$570.00 and a pet damage deposit of \$270.00.

The rental unit is in a single dwelling house containing 3 units. The Landlord is only seeking a rent increase for the Tenant's unit.

The Landlord submitted this application on June 26, 2023 and did not submit an application for an additional rent increase prior to this application.

The Landlord affirmed he replaced the roof, as it was original from 1993 and it was beyond its useful life. The replacement happened in November 2021 and the Landlord paid for it on November 18, 2021. The invoice for the \$10,945.00 expenditure is dated November 18, 2021.

The Landlord stated he cleaned the dwelling's gutters and replaced the drain baskets in June 2022. The invoice dated June 22, 2022 states: "description: cleaned out gutters and replaced broken/missing drain baskets." The Landlord paid for this service on the invoice date. The Tenant testified the gutters cleaning is regular maintenance and that replacing missing and broken drain baskets is not replacing a rental unit's major system.

The Landlord said the prior rain baskets were not working because they were beyond their useful life, as they were original from 1993. The new rain baskets are expected to last decades and the rental units were in danger, as the rainwater was leaking into them.

The Landlord affirmed he is not entitled to be paid from any specific source and the expenditures are not related to inadequate repair.

Analysis

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.

Section 23.1 of the Regulation sets out the framework for determining if a landlord is entitled to impose an additional rent increase for capital expenditures.

Section 23.1.(4)(b) states: "the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all of the following: the capital expenditures were incurred in the 18-month period preceding the date on which the landlord makes the application".

Policy Guideline 37C states: “The capital expenditure must have been incurred in the 18-month period preceding the date the landlord submits their application to be eligible for an additional rent increase. A “capital expenditure” refers to the entire project of installing, repairing, or replacing a major system or major component as required or permitted (see section C.1). As such, the date on which a capital expenditure is considered to be incurred is the date the final payment related to the capital expenditure was made.”

Based on the Landlord’s undisputed testimony and the roof invoice, I find the roof replacement happened more than 18 months prior to the date on which the Landlord applied, as the Landlord paid for the roof replacement on November 18, 2021 and applied on June 26, 2023.

Policy Guideline 37C states: “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.”

Based on the Landlord’s testimony and the invoice, I find that cleaning the dwelling’s gutters is regular maintenance, as gutters need to be cleaned regularly. I further find that replacing the drain baskets is not a substantive repair, but a minor repair. Furthermore, if I had concluded that the drain baskets replacement is a substantive repair, the Landlord failed to prove how much he paid for the drain baskets replacement, as the amount claimed of \$807.80 is for both the gutter cleaning and drain baskets replacement.

Considering the above, I find the Landlord is not allowed to impose an additional rent increase for the expenditures claimed.

Conclusion

I dismiss the application without leave to reapply.

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: October 3, 2023