



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

On May 18, 2024 (the “Application date”), the Landlord filed an Application pursuant to s. 43 of the *Residential Tenancy Act* (the “Act”) and s. 23.1 of the *Residential Tenancy Regulation* (the “Regulation”) for an additional rent increase for capital expenditures pursuant to s. 23.1 of the *Regulation*.

The Landlord’s agent (hereinafter, the “Landlord”) attended the hearing at the scheduled hearing time. One Tenant attended briefly and clarified they had no objections.

Preliminary Issue – service and disclosure of evidence

The Landlord provided a record of their service of the “rent increase for a capital expenditure” sent to each Tenant on June 7, 2024. This was one day after the Residential Tenancy Branch provided the notice of this hearing to the Landlord. The Landlord provided attachments that have each piece of evidence relied on to establish the basic information in this Application. The Landlord also provided the record of each Tenant authorizing email service from the Landlord.

I find there is no issue with the Landlord’s service of the Notice of Dispute Resolution Proceeding, and their evidence, to each Tenant involved. I am satisfied that the Landlord completed this task fully and completely as required, in accordance with the *Residential Tenancy Branch Rules of Procedure*.

Issue to be Decided

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

Background and Evidence

The rental property consists of 3 individual rental units. The Landlord provided a record of a title search establishing them as the registered owners of the property.

The Landlord provided an excerpt from a home inspection report dated October 10, 2020. They obtained this report prior to their purchase of the rental property in spring 2021. The report outlines the state of the roof on the building structure, providing: "Roof existing beyond design life, needs replacing." The inspector recommended that "the entire roof should always be replaced at once." The report noted the approximate age of the roof to be 40 years old.

The Landlord proceeded with this project and obtained a quote on December 17, 2023. This listed:

Remove existing asphalt shingles, install drip edge flashings, ice and water shield on the leading edge and valley, synthetic paper (Nova-Seal), IKO Cambridge shingles, and cap.

As set out in the quote, the Landlord paid the amount of \$12,158.18 to the contractor via bank draft dated April 17, 2024.

The Landlord provided two photos showing the completed work.

This amount is the capital expense that the Landlord submits is related to a major system or major component of the rental property.

Analysis

The *Residential Tenancy Regulation* (the "*Regulation*"), s. 23.1 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 Tenant bears 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

In this case, there was no evidence that the Landlord made a prior application for an additional rent increase within the previous 18 months.

Number of specified dwelling units

For the determination of the final amount of an additional rent increase, the *Regulation* s. 21.1(1) 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.

I find there are 3 eligible dwelling units, as specified by the Landlord in the hearing. This is clearly showed in the Landlord's copy of each tenancy agreement in their evidence.

Eligibility and Amounts

I address whether the expenditure was *eligible*, and the expenditure *amount*.

As set out in s. 23.1(4) of the *Regulation*, I find the replacement of roofing on the rental unit building qualifies as a replacement of a major component of a major system, with the "major system" being structural, *i.e.*, integral to the residential property.

I find, jointly and in the alternative, that new roofing, as described in the company's quote/invoice, is a major component that the Landlord had to replace to comply with health, safety, and housing standards.

I conclude this is an eligible expense under this statutory framework.

Timing of the Capital Expenditure

I accept the Landlord's evidence that the single payment for the work was on April 17, 2024. This date is within 18 months of the Landlord's application to the Residential Tenancy Branch May 18, 2024.

Life Expectancy of the Capital Expenditure

With regard to the Residential Tenancy Policy Guideline 40: Useful Life of Building Elements, I find the asphalt shingles have a useful life of 15 years.

The warranty on the firm's invoice gives a 5-year timeframe for coverage. On this basis, I am satisfied the capital expenditure will not reoccur, and there will be no expenditure incurred again within 5 years.

Outcome

The Landlord has proven all of the necessary elements for their Application.

I grant the Landlord's Application for the additional rent increase, based on the eligible capital expenditure of \$12,168.13. This is pursuant of s. 43(1)(b) of the *Act*, and s. 23.1(4) of the *Regulation*, referred to above.

The *Regulation* s. 23.2 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 found there are 3 specified dwelling units, and that the amount of the eligible capital expenditure is \$12,168.13.

Therefore, the Landlord has established the basis for an additional rent increase for capital expenditures of \$33.77 ($\$12,168.3139 \div 3 \div 120$) per month, per affected tenancy. This is as per s. 23.2 of the *Regulation*. 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, calculated above, in a single year.

I direct the Landlord to the Residential Tenancy Branch Policy Guideline 37C to properly calculate the rent increase in accordance with the *Regulation* s. 23.3. This is positively the Landlord's responsibility and obligation. As well, I direct both parties to s. 42 of the *Act* that sets out annual rent increases, which the Landlord is still entitled to impose.

Conclusion

I grant the Landlord's Application for an additional rent increase for the capital expenditure of \$12,158.18.

I order the Landlord to serve all tenants with this Decision, in accordance with s. 88 of the *Act*. This must occur within two weeks of this Decision. I authorize the Landlord to serve each tenant by sending it to them via email. The Landlord must also be able to provide a copy to any tenant that requires a printed copy in person.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 13, 2024