

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 14, 2022

CASE: 2021-00422R

Citation: Rahman v. Peel Standard Condominium Corporation No. 779, 2022 ONCAT 5

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicant,

Aqib Rahman

Self-Represented

The Respondent,

Peel Standard Condominium Corporation No. 779

DISMISSAL ORDER

- [1] This order is the first under the Condominium Authority Tribunal's (CAT) expanded jurisdiction. The order discusses the application and explains why the CAT has no power to address the issues in dispute.
- [2] The jurisdiction of the CAT is outlined in Ontario Regulation 179/17, and the jurisdiction was expanded between when the application was filed, and when this decision was released. The Applicant filed an application on December 14, 2021. The application was filed as a governing documents dispute related to pets and animals, vehicles, parking and storage. Although the application was filed in December, the Applicant requested that the application be considered under the expanded jurisdiction.
- [3] As of January 1, 2022, the CAT's jurisdiction expanded to include disputes under section 117 (2) of the *Condominium Act, 1998* (the "Act"). This jurisdiction relates to unreasonable nuisances, annoyances, or disruptions. The jurisdiction is further limited¹ to include specific nuisances outlined in regulations. The prescribed nuisances are noise, odour, light, vibrations, smoke and vapour, and disputes about any other type of nuisance, annoyance or disruption set out in provisions of the condominium corporation's governing documents.
- [4] The Application included the following case description:

I am starting this application with CAT on the improper basis of appointed officers on behalf of

¹ . See the Condominium Act (1998) s. 117(2) and section 26 of Ontario Regulation 48/01

PSCC779 whereas there are no clear indications within the bylaws or declarations for PSCC779 or reference's applicable to the term (HONORARY VICE PRESIDENT & HONORARY DEPUTY SECRETARY. This appointment by management was posted all over the common elements poster boards without any other notice to unit owners or proper voting method to appoint "HONORARY OFFICERS". See attached Exhibit 1

At our AGM one of the now newly appointed HONORARY VICE PRESIDENT's raised issues with how the vote ballots were conducted and that she should have been elected. The way I view this improper appointment of HONORARY OFFICERS is possibly to cover up the actual voting of newly elected board members at the AGM that might have been conducted improperly.

I am very confused as to the governance of this Condominium as the Condominium is not protecting the interest of unit owners such as myself in a manner that is transparent and clear with its methods. I have a direct interest in this issue since I own an asset unit condominium here and this is also in consumer protection interest's (public interests) & CAT is a Government appointed administrative body. I raised this issue with the management as per exhibit 2 attached, the response shrugged the concern off to the next AGM which is a year from now while the governance of my assets rests in the hands of an improperly compiled Board Officers. While I agree with one of the newly improperly appointed "Honorary Officers" being possibly the president aside from vice president due to his/her experience, however improperly appointed without a vote or consent goes against our principals/rules of Governance while these Honorary Officers have no power or even anyway of being held responsible in the event something improper further arise from their own involvement. From my perspective the appointment such as this is a breach of fiduciary trust and duties which applies to the existing board and therefore if they require to be replaced or randomly appoint other officers then it is valid to have the existing board either shuffled or removed.

This application is actually being applied under CAT'S Jurisdiction of Governing Documents, but also meant to be processed further on JANUARY 1ST when CAT'S newly appointed Jurisdiction comes into effect whereas this application also falls under section 117 of the ACT: See Exhibit 3 & 4.

[5] Under Rule 19.1, the CAT can dismiss an application if it determines that it has no legal power to hear or decide upon the dispute. After receiving the application, the CAT identified concerns with the scope of the dispute. The CAT sent a Notice of Intent to Dismiss (the notice) on December 17, 2021, proposing to dismiss this application for the following reasons:

1. The Applicant filed an application as a dispute about the governing documents of the Respondent condominium corporation.
2. The dispute appears to relate to the election, appointment and governance of the Respondent's Board of Directors. No provisions of the condominium corporation's governing documents have been identified that prohibit, restrict or otherwise govern pets, animals, vehicles, parking and / or the storage of items.
3. The issues in dispute appear to be outside of the CAT's jurisdiction, as set out under Ontario Regulation 179/17.
4. In light of the amendments to Ontario Regulation 179/17 effective January 1,

2022, the dispute would still appear to be outside of the CAT's amended jurisdiction.

- [6] The Tribunal requested the Applicant respond to the Notice by January 7, 2022. The Applicant did not respond to the Notice.
- [7] Although the application was filed before January 1, 2022, I have considered if the application should be accepted under the expanded jurisdiction. In asking the CAT to accept the application, the Applicant is asserting that this dispute should be considered as a dispute under section 1. (1) d (iii.2) of O.Reg 179/17. This section grants the CAT jurisdiction over "any other type of nuisance, annoyance or disruption set out in provisions of the condominium corporation's governing documents." The Applicant contends that this section is relevant because the rules governing the role of the board are established in the governing documents of the corporation.
- [8] The Applicant has a genuine belief that the Tribunal has the authority to deal with the application. The Applicant is mistaken. The Applicant has raised concerns about the board governance and election practices. The application is about the appointment of "honorary officers." It may be true that the roles of the officers are outlined in the governing documents. However, even if I were to accept that the allegations concerning the appointment of honorary officers to the board are true, the issues in dispute are outside the jurisdiction of the CAT. Nothing about this application relates to the nuisances outlined in s.117(2) of the Act or s. 26 of O.Reg 48/01. Furthermore, the issues in this application are not specifically identified as a nuisance, annoyance or disruption set out in provisions of the condominium corporation's governing documents. Accordingly, I order that this application be dismissed.

ORDER

- [9] The Tribunal orders the application dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: January 14, 2022