

## **CONDOMINIUM AUTHORITY TRIBUNAL**

**DATE:** May 19, 2022

**CASE:** 2022-00057N

**Citation:** Toronto Standard Condominium Corporation No. 2208 v. Kaissi et al., 2022 ONCAT 54

Order under Rule 4 of the Condominium Authority Tribunal's Rules of Practice.

**Member:** Mary Ann Spencer, Member

**The Applicant,**

Toronto Standard Condominium Corporation No. 2208  
Represented by Bharat Kapoor, Counsel

**The Respondents,**

Amer Taameri Kaissi and Aya Marwan Kamel El Barek  
Represented by David Costa, Counsel

### **MOTION DECISION**

- [1] The Stage 3 – Tribunal Decision proceeding in this matter began on April 21, 2022. The Applicant (“TSCC 2208”) brought this application for an order requiring the Respondents to permanently remove their dog from its premises.
- [2] On December 2, 2021, the Respondents’ dog attacked another dog in the lobby of TSCC 2208. The attacked dog required veterinary care and a settlement was reached between its owner and the Respondents. The City of Toronto investigated the incident and determined that the Respondents’ dog is ‘dangerous.’ On December 17, by resolution, the board of TSCC 2208 declared the Respondents’ dog a nuisance. On December 23, 2021, TSCC 2208’s Counsel issued notice to the Respondents to permanently remove the dog from the corporation’s premises by January 13, 2022. The Respondents have not done so, resulting in this application before the Tribunal.
- [3] As a preliminary matter, the Respondents have filed a motion requesting that Cathy Bisset-Parkes, the owner of the attacked dog, be added as a party to this matter. Section 1.38 (3) of the *Condominium Act, 1998* (the “Act”) states that the “Tribunal may add or remove a person as a party if the Tribunal considers it appropriate.”

- [4] Counsel for the Respondents submits that by loitering in TSCC 2208's lobby in contravention of its rules, Ms. Bisset-Parkes created the situation which resulted in the attack of her dog on December 2, 2021. He further submits that she should be held responsible for costs in this matter due to this negligence and to her "persistent complaints and efforts to motivate the board" to remove the Respondents dog in violation of the settlement she signed with the Respondents.
- [5] Counsel for the Applicant submits that there are no grounds on which to add Ms. Bisset-Parkes as a party to this matter. He notes that the Tribunal's "Guide to Respondents and Intervenor" advises applicants to name those it holds responsible for the issue as respondents, which in this case TSCC 2208 determined were the owners of the attacking dog. He further noted that the corporation is bound by the provisions of the Act and its governing documents and was not a party to the settlement agreement between Ms. Bisset-Parkes and the Respondents.
- [6] The Stage 2 Summary and Order in this matter sets out that the issue to be addressed during Stage 3 – Tribunal Decision is whether the Tribunal should order the Respondents to remove their dog from TSCC 2208's premises. It was the Applicant's board of directors that made the decision to issue notice to the Respondents to remove their dog. In making its decision, the Tribunal will determine whether the board acted reasonably in making its decision. This standard of review is well-established law as set out in paragraph 9 of *Muskoka Condominium Corporation No. 39 v. Kreutzweiser*, 2010 ONSC 2463 (CanLII):

Where the court is asked to enforce a declaration by a corporation great deference should be shown to that declaration. It is not for the court to substitute its view of what is reasonable for that of the board. If the board has acted reasonably and not capriciously it is important that the court support the board's decision. *York Condominium Corporation No. 382 v Dvorchik* [1997] O.J. No. 378 (C.A.) at paragraph 5.

- [7] Ms. Bisset-Parkes could only be added as a party to this matter as an Intervenor. While Rule 17 of the Tribunal's Rules of Practice does not specifically address the addition of an owner of another unit as a party, the Tribunal has added such owners when there is potential for them to be directly affected by the Tribunal's decision. Notwithstanding that Ms. Bisset-Parkes may well have a greater personal interest in the outcome of this matter than other owners, the decision will affect her no more directly than it would any other owner. And, while her testimony may well be relevant to the Tribunal's decision with respect to the reasonableness of the board's decision, that testimony can be obtained if she is called as a witness which I note the Applicant's Counsel advised he intends. Further, there is no basis on which she could be held responsible for costs in this matter. This case is about the

board's decision; It was the Applicant which gave notice to the Respondents to remove their dog. If the Respondents were to be awarded costs, it would be the Applicant which would be ordered to pay. For these reasons, the Respondents' motion is denied.

[8] I note that the Applicant requested costs related to this motion. I will consider requests for costs at the end of the Stage 3 – Tribunal Decision process.

### **DECISION**

[9] The Tribunal orders that the Respondents' motion is denied.

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Mary Ann Spencer  
Member, Condominium Authority Tribunal

Released on: May 19, 2022