

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 1, 2022

CASE: 2022-00230N

Citation: Durham Condominium Corporation No. 80 v. Occleston, 2022 ONCAT 59

Order under section 1.47 of the *Condominium Act, 1998*.

Member: Benjamin Drory, Mediator

The Applicant,

Durham Condominium Corporation No. 80

Represented by Victor Yee, Counsel

The Respondent,

Marilyn Occleston

Represented by Kelly Aitchison, Counsel

CONSENT ORDER

- [1] The Applicant initiated this proceeding in the Condominium Authority Tribunal (CAT), alleging that the Respondent and/or occupants of her unit had been causing smoking odours to emanate from the Unit, causing a nuisance to other residents in their units and/or the common elements. The Applicant sought an order requiring the Respondent and any occupants/guests/visitors to her unit to comply with its no-smoking Rule, which includes smoking within units or common elements.
- [2] In the CAT's online dispute resolution system, the Parties agreed to settle the substantive issues in this case during Stage 2 – Mediation.
- [3] However, the parties did not agree on a resolution respecting costs for this matter. The parties agreed to have the issue of costs adjudicated on its own in Stage 3 – Tribunal Decision. The parties explicitly acknowledge and agree that the outstanding costs issue to be adjudicated in Stage 3 may include submissions and evidence regarding whether the Respondent (including those for whom she is responsible) has violated section 117(2) of the *Condominium Act, 1998* and/or the Applicant's governing documents, should such evidence and submissions be deemed relevant and reasonable by the Tribunal.
- [4] With the consent of the Parties, the CAT orders that the substantive issues in this case have been resolved, based upon the terms and conditions set out in this consent order.

ORDER

[5] The Respondent has agreed not to allow smoking in her unit, in her exclusive-use balcony, or in the Applicant's common elements, whether by herself or anybody else.

COMPLIANCE

[6] If any of the Parties fails to comply with any of the terms of this order, it may be enforced through the Ontario Superior Court of Justice.

Benjamin Drory
Member, Condominium Authority Tribunal

Released on: June 1, 2022