

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** May 20, 2022

**CASE:** 2021-00383R

**Citation:** Jung v. Hastings Standard Condominium Corporation No. 49, 2022 ONCAT 55

Order under Rule 19.1 of the CAT's Rules of Practice.

**Member:** Ian Darling, Chair

**The Applicant,**  
Kayla Jung  
Self-Represented

**The Respondent,**  
Hastings Standard Condominium Corporation No. 49

### **DISMISSAL ORDER**

- [1] This application was submitted to Condominium Authority Tribunal (CAT) on April 21, 2022, as a dispute about the adequacy of the Respondent's condominium declaration. The CAT reviewed the application and on April 27, 2022, issued a Notice of Intent to Dismiss (Notice) the Case. The parties were invited to respond to the Notice. The Applicant responded. The Respondent did not.
- [2] The CAT gave the following reasons for considering to dismiss the application:
1. The CAT's jurisdiction is established under [Ontario Regulation 179/17](#) (the Regulation).
  2. The application relates to an alleged error and / or inconsistency in how the Declaration assigned the proportion of total common expense fees that each unit is responsible for paying.
  3. The Applicant is seeking that alleged errors in the declaration be corrected, and for fees associated with the alleged errors be paid back to the Applicant.
  4. The *Condominium Act, 1998* (the "Act"), includes a process that condominium corporations and / or unit owners can use if they believe that their condominium's declaration contains a error or inconsistency.
  5. Under [section 109 of the Act](#), condominium corporations and/or unit owners may apply to the Ontario Superior Court of Justice for a order to amend the

condominium's declaration, and the court may grant the order if it is satisfied that the amendment is necessary or desirable to **correct an error or inconsistency that appears in the declaration** or that arises out of the carrying out of the intent and purpose of the declaration.

- [3] The Applicant responded to the Notice by acknowledging that the issues with the declaration should be addressed to the Superior Court of Justice, but stated that:

I am now seeking assistance with having the two \$55 NSF charges and the \$452 lien fees removed from my account. Although these fees are intertwined with the issues of the declaration, I feel there is enough evidence to request the aid of the CAT. The following is an email I had written to the owner of Larlyn Property Management (PM), Larry Holmes. The owner replied to this email on December 31, 2021, stating, "I acknowledge receipt of this latest email from you and will respond when I get a moment to investigate, likely next week", however I have not received a reply. All follow up emails have also been ignored. I feel that this email explains in depth the basis of my request to have the fees removed from my account due to the negligence of Larlyn and their accounting processes.

- [4] The Act specifically designates the Superior Court of Justice as the appropriate venue, the CAT does not have the legal power to hear or decide upon the issues in dispute. The remaining issues fall outside of the CAT's jurisdiction specified in the Regulation.
- [5] The Applicant has a dispute with the corporation regarding fees and associated lien. It also appears that the corporation (through its condominium management services provider) has not responded to her concerns. However, these issues fall outside of the jurisdiction of the Tribunal. I encourage the parties to work together to resolve these issues without needing to embark on formal court proceedings.

### **ORDER**

- [6] I find that the issues that make up this dispute are not within the jurisdiction of the CAT. Accordingly, I order that this case be dismissed.

---

Ian Darling  
Chair, Condominium Authority Tribunal

Released on: May 20, 2022