

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** June 3, 2022

**CASE:** 2022-00083N

**Citation:** Schnitzler v. Metropolitan Toronto Condominium Corporation No. 1321, 2022 ONCAT 62

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

**Member:** Monica Goyal, Member

**The Applicant,**

Peter Schnitzler

Self-Represented

**The Respondent,**

Metropolitan Toronto Condominium Corporation No. 1321

Represented by Bharat Kapoor

### MOTION ORDER

- [1] Metropolitan Toronto Condominium Corporation No. 1321 ("MTCC1321") moves at Stage 2 Mediation to dismiss this Application on the grounds that the Condominium Authority Tribunal ("CAT") does not have the jurisdiction to hear it. MTCC1321 submits that this case is either solely or principally about workplace harassment pursuant to the *Occupational Health and Safety Act, 1990* ("OHSA"). In MTCC1321's submission, the Application must be dismissed.
- [2] The Applicant, Mr. Peter Schnitzler, is a condominium unit owner in MTCC1321. On December 16, 2021, Mr. Schnitzler received a lawyer letter from MTCC1321 that requested that he cease harassing the security guard of the building. The letter also said that Mr. Schnitzler's aggressive verbal altercations was unreasonably interfering with the use and enjoyment of the other residents in their respective units and/or common elements. After receiving this letter, Mr. Schnitzler received an invoice from MTCC1321 for \$1,499.23 demanding that he indemnifies MTCC1321 for the legal cost of the lawyer letter (the "Chargeback"). Mr. Schnitzler brought this Application to dispute the Chargeback. He says that the lawyer's letter specifically mentioned noise nuisance as being breached and as noise disputes do fall under jurisdiction of the CAT, then CAT had jurisdiction over the matter.
- [3] For the reasons set out below, I am dismissing this motion. I find that MTCC1321

is trying to enforce their noise nuisance rule. The CAT has jurisdiction over noise nuisance disputes, and thus the indemnification provisions pertaining to such a dispute.

## Issue and Analysis

- [4] Under Ontario Regulation 179/17 (the “Regulation”) to the *Condominium Act, 1998* (the “Act”) the CAT has the jurisdiction to hear a dispute with respect to provisions in a condominium corporation’s declaration, by-laws or rules which “... prohibit, restrict or otherwise govern any other nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.” Issues such as the validity or enforceability of any Noise Nuisance rules fall within the jurisdiction of the CAT.
- [5] If a dispute involves a noise nuisance then the CAT also has jurisdiction pursuant to the Regulation to hear a dispute with respect to “[p]rovisions that govern the indemnification or compensation of the corporation, an owner or a mortgagee regarding a dispute” (“Indemnification”).
- [6] To determine the CAT’s jurisdiction in this case, the only issue I must decide is whether there is a dispute with respect to a rule prohibiting a noise nuisance.
- [7] Tab 1 of the Respondent’s submission brief contains the complaint letter sent by the lawyer of MTCC1321 to Mr. Schnitzler. The letter alleges that the Applicant’s conduct was in contravention to MTCC1321’s rule on noise nuisance, the relevant paragraphs reproduced below:

“In this regard, the aforesaid conduct associated with your Unit is contrary to the following provisions from the Governing Documents:

Rule 3 provides that:

“Owners and their families and guests shall not create or permit the creation of any noise or nuisance, which in accordance with municipal bylaws and the judgment of security or management, on behalf of the Board, disturbs the comfort or quiet enjoyment of the units or common elements by other owners or guests.”

....

In the view of the Management and the Board of Directors, engaging in aggressive verbal altercations and using vulgar language within the lobby is an example of conduct that, at the very least, unreasonably interferes with the use and enjoyment by other residents of their respective units and/or the common

elements.”

- [8] The lawyer for MTCC1321 in the letter says that the Applicant had breached the noise nuisance rule of the Corporation. As such, I find that there is a dispute between the parties about a noise nuisance, which is a dispute that the CAT has jurisdiction over.
- [9] Both parties referred me to *Martis v. PCC No. 253*, 2021 ONCAT 60 (“*Martis*”), where the Respondent, PCC No. 253, brought a motion to dismiss on jurisdictional basis in a pets case. MTCC1321 said that the facts and circumstances in this case are completely different from the present case, and that the case could not be relied upon. The Applicant says the case stands for the proposition that the Tribunal can have jurisdiction over a case even if there are other legal issues that arise in the case that are outside of the jurisdiction of the CAT. I agree that the facts and circumstances of this case are very different from the *Martis* but I disagree with both party’s interpretation of *Martis*. In *Martis*, the CAT held the CAT’s jurisdiction over rules pertaining to pets and that the case involved a dispute over the pet rules. As in that case, the matter in this case, involves the enforcement of a rule, which is properly within the jurisdiction of the CAT, and can be considered by the CAT.
- [10] I would encourage both parties to make a good faith effort to resolve this case at the mediation stage.

## **ORDER**

- [11] The motion to dismiss the Application is dismissed.

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Monica Goyal  
Member, Condominium Authority Tribunal

Released on: June 3, 2022