

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 13, 2022

CASE: 2021-00389R

Citation: Kim v. York Condominium Corporation No. 96, 2022 ONCAT 74

Order under section 1.44 of the *Condominium Act, 1998*.

Member: Marc Bhalla, Member

The Applicant,

John Kim

Self-Represented

The Respondent,

York Condominium Corporation No. 96

Represented by Carol Dirks, Counsel

MOTION ORDER

- [1] At issue in this case is the adequacy of records. Early in the Stage 3 hearing, the Respondent brought a motion to dismiss this case, claiming the Applicant was late bringing it to this Tribunal.
- [2] The Respondent cites section 13.10 (1) (b) of Ontario Regulation 48/01 which states that a request for records is considered abandoned if the requestor does not apply to this Tribunal within 60 days of receiving the board's reply to their request. The Respondent also cites section 13.10 (2) of Ontario Regulation 48/01 which states that a request for records is considered abandoned if the requestor does not apply to this Tribunal within six months of delivering a request for records to the corporation. The Respondent claims that whether or not it is seen to have replied to the Applicant's Request for Records, the time by which the Applicant was to file this case passed before they did so.
- [3] The Applicant delivered a Request for Records on May 20, 2021. The Respondent failed to reply within 30 days. In view of the Respondent's failure to properly reply, I prefer the application of section 13.10 (2) of Ontario Regulation 48/01 to this case. Section 13.10 (2) gives the Applicant six months from delivering their Request for Records to apply to this Tribunal. Thus, the Applicant had to file this case by November 20, 2021.
- [4] The Respondent claims the Applicant filed this case on November 24, 2021. The Applicant claims that they filed this case on November 18, 2021. They offer a credit

card statement that displays a \$25 charge by the Condominium Authority of Ontario in support of this. A review of this Tribunal's records confirms that this application was filed by the Applicant on November 18, 2021. The case was approved by the Tribunal on November 24, 2021.

- [5] I find that the Applicant applied to this Tribunal to file this case within the six months required by Section 13.10 (2) of Ontario Regulation 48/01. The hearing shall proceed on the schedule I establish to determine the adequacy of records provided to the Applicant.

ORDER

- [6] The Tribunal orders the motion dismissed.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: July 13, 2022