

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: November 23, 2022

CASE: 2022-00633N

Citation: Wei v. Toronto Standard Condominium Corporation No. 2297, 2022 ONCAT 129

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicant,

Maureen Wei

Self-Represented

The Respondent,

Toronto Standard Condominium Corporation No. 2297

DISMISSAL ORDER

[1] An application was submitted to the Condominium Authority Tribunal (CAT) on October 10, 2022. We reviewed the application but did not accept the case. We proposed to dismiss this application under Rule 19.1 of the CAT's Rules of Practice for the following reasons:

1. The CAT's jurisdiction is established by the Ontario Government. Ontario Regulation 179/17 contains the specific wording of the CAT's jurisdiction. The CAT does not have the legal authority to decide issues that are outside its jurisdiction.
2. The application was filed as a dispute about a nuisance, annoyance or disruption that is prohibited, restricted or otherwise governed under the *Condominium Act, 1998* (the "Act") or the condominium corporation's declaration, by-laws or rules (the "governing documents").
3. In the application's problem description, the Applicant alleges that the Respondent has not complied with or has misinterpreted section 11.2 of their by-laws which deals with the owner's obligation to pay common expense fees in equal monthly payments by post-dated cheques or pre-authorized payment plan.
4. The Applicant argues that the condominium manager's failure to accept common expense fees by debit card is an unreasonable disruption to their obligations set out in section 11.2 of their by-laws.

5. The Applicant also argues that they were unreasonably charged back for a fan coil clean up and were seeking to dispute a request for records they sent to their Board.
 6. The Applicant was informed by the CAT that their dispute does not clearly relate to an alleged nuisance, annoyance or disruption and was given an opportunity to provide clarification on how their issues relate to a dispute that the CAT has jurisdiction over.
 7. The Applicant was informed by the CAT that a separate records application may be filed dealing solely with their records issue which the CAT can accept and has jurisdiction over.
 8. The Applicant is seeking to address a dispute with the condominium related to the payment and collection of common expenses and a maintenance related chargeback, both of which would appear to be outside of the CAT's jurisdiction.
 9. For the CAT to accept this type of application, the issues in dispute must relate to a type of nuisance, annoyance or disruption that is prohibited, restricted, or governed under the condominium's governing documents.
 10. While the common expense payment issue and chargeback for fan coil clean up may be a real issue affecting the Applicant, it does not appear to relate to a nuisance, annoyance or disruption set out under the condominium's governing documents.
- [2] The CAT issued a Notice of Intent to Dismiss the Application on October 23, 2022. The Applicant asserted that the tribunal does have the power to address all of the issues in dispute but did not provide any further submissions.
- [3] The Applicant is incorrect. The case was filed under the CAT's nuisance jurisdiction. None of the issues are nuisances. The issues in dispute relate to provisions about paying common expenses, and a maintenance related chargeback. For the CAT to accept this type of application, the issues in dispute must relate to a type of nuisance, annoyance or disruption that is prohibited, restricted, or governed under the condominium's governing documents. The provisions identified in this application do not apply to the alleged nuisance. The Applicant finds the dispute to be annoying and disruptive, but these issues are outside of the tribunal's jurisdiction.
- [4] I note that the problem description for this case also refers to a related records dispute. This may fall within the jurisdiction of the tribunal – however, it is not possible to separate the records issue from the non-jurisdictional issues in this application. If the Applicant would like to file a new records case that is restricted to the tribunal's records jurisdiction, the Tribunal will waive the application fee. The Applicant is directed to contact tribunal staff to complete this application.

ORDER

[5] The Tribunal orders the application dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: November 23, 2022