

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** December 23, 2022

**CASE:** 2022-00547N

**Citation:** Marinucci v. Grande, 2022 ONCAT 149

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

**Member:** Ian Darling, Chair

**The Applicant,**

Eugenio Marinucci

Represented by Shannon Penney, Counsel

**The Respondent,**

Gregory Grande

Self-Represented

**The Intervenor,**

Toronto Standard Condominium Corporation No. 2677

Represented by Yulia Pesin, Counsel

### **MOTION ORDER**

- [1] Eugenio Marinucci (the Applicant), an Owner in Toronto Standard Condominium Corporation No. 2677 (TSCC 2677), brought an application under the CAT's nuisance jurisdiction with respect to the conduct of Gregory Grande, a tenant occupier of the Applicant's unit. The case was accepted and moved into Stage 1 - Negotiation.
- [2] The case was closed by the CAT on December 5, 2022, in accordance with Rule 30.1 of the CAT's Rules of Practice as there had been no activity in the case for more than 30 days. On December 7, 2022, the Applicant filed a motion requesting that the case be reopened. The CAT asked for submissions from the parties.
- [3] The Respondent did not reply to the CAT's Notice of Motion. TSCC 2677, an intervenor in the case, provided further context regarding the alleged nuisance behaviour. TSCC 2677 supported the motion.
- [4] In deciding whether to reopen the case, I am guided by the factors for consideration set out in *Frey v. MacDonald* [1989] O.J. No. 236 (C.A.). In *Frey*, the Court set out four factors to be considered in assessing a request for an extension of time as follows:
  - a. The existence of a bona fide intention to appeal;

- b. The length of the delay;
- c. Prejudice to the other party; and,
- d. The merits of the appeal.

When considering these factors, the Court has also stated that “the justice of the case” is the overriding consideration.

- [5] I have decided to grant the request to reopen the case. The Applicant contacted the CAT directly after the case was closed. There is minimal prejudice to any party, since the case was in Stage 1 – Negotiation. All parties will have a chance to resolve the case in Negotiation (or subsequent stages if required). Furthermore, since the CAT did not make a decision on the Application, if I were to deny the request, the issues could be reintroduced in a new application. Requiring a new application would result in increased time and costs for all parties, and the Tribunal. Therefore, it is most fair that the case be reopened.

**ORDER**

- [6] I order the case reopened in Stage 1 – Negotiation.

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Ian Darling  
Chair, Condominium Authority Tribunal

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