

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 25, 2023

CASE: 2022-00718R

Citation: Rangan v. Metropolitan Toronto Condominium Corporation No. 996, 2023 ONCAT 11

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

Member: Dawn Wickett, Member

The Applicant,
Sriram Rangan
Self-Represented

The Respondent,
Metropolitan Toronto Condominium Corporation No.996
Represented by Natalia Polis, Counsel

Online Mediation: December 26, 2022, to January 18, 2023

Online Written Hearing: January 19, 2023, to January 24, 2023

DECISION AND ORDER

A. INTRODUCTION

[1] The parties agreed to conduct the case as a Mediation/Adjudication (Med/Adj) under the authority of Rule 44 of the CAT's Rules of Practice. I acted as both Mediator and Adjudicator. There is a difference between mediation and adjudication. Mediation is an informal negotiation process where a mediator helps facilitate discussions between the parties in the hopes of reaching a settlement. By contrast, adjudication is the formal process of deciding a case. In adjudication, each party presents their evidence and arguments to an impartial third person, called an adjudicator, who then analyzes the evidence and arguments and decides the matter. The Parties agreed within a short time of the mediation starting, that because of the narrow scope of the issue in dispute, rather than proceeding to Stage 3 Tribunal Decision, I should adjudicate the case.

B. BACKGROUND

[2] The Applicant filed their application with the Tribunal because Metropolitan Toronto Condominium Corporation No. 996 ('MTCC 966') did not provide them with the Board Response Forms within 30 days of having made two separate requests for records. The first request was made on October 12, 2022, and the second request was made on November 9, 2022.

- [3] There is no dispute between the parties that MTCC 966 provided the Applicant with the requested records and did so within 30 days of the request, as required by the *Condominium Act, 1998* (the "Act"). There is also no dispute that while MTCC 966 provided the Applicant with the requested records, they failed to provide the Board Response Forms which is a requirement under section 13.6(1) of O. Reg. 48/01.
- [4] Prior to filing their application with the Tribunal, the Applicant asked MTCC 966 for the Board Response Forms. The Applicant made their request on at least two different occasions by way of email (November 11 and November 21, 2022). This was not in dispute during the mediation portion of this application.
- [5] On December 1, 2022, during the negotiation stage of this application, the Respondent provided the Applicant with the two Board Response Forms. The Respondent also agreed to pay to the Applicant the cost (\$25) for filing the application with the Tribunal.
- [6] Upon receipt of the Board Response Forms and offer from the Respondent to reimburse the cost of filing this application, the Applicant further requested that the Respondent reimburse the cost for their proportionate share of the legal fees spent by MTCC 966 with respect to this application.
- [7] The Applicant owns two units in the condominium building and estimated their proportionate share of the legal fees as \$7.10 (approximately \$3.55/unit).
- [8] The parties could not resolve the final issue, being the Applicant's request that the Respondent reimburse them for their estimated proportionate share for the legal fees (\$7.10). As such, the Applicant moved their application to Stage 2 Mediation.

C. ISSUES AND ANALYSIS

- [9] Once in Stage 2 Mediation, in addition to the \$25 cost for filing the application and the \$7.10 for the proportionate share of legal fees, the Applicant requested that the Respondent reimburse them an additional \$50 for the cost for moving their matter to Stage 2 Mediation.
- [10] The parties acknowledged that mediation would not resolve the issue of costs which the Applicant is seeking. The Applicant sought to have the application moved to Stage 3 for adjudication.
- [11] Given the narrow scope of the remaining issue in dispute, I offered the parties Med/Adj as an alternative to the Applicant paying an additional fee to move the application to Stage 3 Adjudication. I did this because the issue in dispute is relatively straightforward, and frankly, moving it to Stage 3 Adjudication would potentially be a waste of Tribunal resources. I say this because the only issue outstanding is costs, all other issues related to the records request having been resolved prior to the mediation stage.

- [12] It is the Applicant's position that MTCC 966 should have provided the Board Response Forms within the statutory requirement of 30 days, and because they did not, the Applicant had to file an application with the Tribunal. The application resulted in MTCC 966 having to retain legal services for the Tribunal process, including completing and providing the Board Response Forms. The Applicant is of the view that these were unnecessary legal fees for which they as a unit owner will incur a proportionate share, in addition to the cost of filing this application.
- [13] The Respondent's Counsel submitted that MTCC 966 consents to reimbursing the Applicant \$25 for the cost of filing the application. They do not however agree to reimbursing the Applicant the cost of moving the application to Stage 2 Mediation or the proportionate share of the legal fees, which is, by their calculations, \$15.16. It is the Respondent's position that they made "exerted efforts to settle" this application in the negotiation stage by agreeing to reimburse the Applicant their cost of filing the application and by providing the Board Response Forms. Further, by the Applicant moving this application to Stage 2 Mediation and requesting Stage 3 Adjudication, the Applicant did so "in malice and vexatiously". As such, MTCC 966 is seeking an order from the Tribunal, pursuant to its Rule 4.2, that the Applicant reimburse their legal fees in the amount of \$2,137.50. The Respondent's Counsel further submitted that all unit owners should not have to subsidize the cost of one unit owner's vexatious and frivolous application, which similarly was the Applicant's position for having sought reimbursement for their proportionate share of the legal fees for this application.
- [14] I find the Applicant is entitled to an order that MTCC 966 reimburse their cost of \$25 for filing their application with the Tribunal. In making this finding, I considered the submissions of both parties that MTCC 966 breached their obligations under the Act by failing to provide the Applicant with the Board Response Forms within 30 days of the Applicant's requests for records. I am of the view that the Applicant should not have had to file an application with the Tribunal to receive the Board Response Forms for which he was legally entitled. I also considered the fact that prior to filing their application with the Tribunal, the Applicant made at least two requests to MTCC 966 for the Board Response Forms. Had MTCC 966 exercised their due diligence and provided the Applicant with the Board Response Forms within the statutory requirement of 30 days, the Applicant likely would not have filed their application.
- [15] With respect to the Applicant's request that MTCC 966 reimburse their cost (\$50) for moving their application to Stage 2 Mediation and their estimated proportionate share of the legal fees (\$7.10), I find the Applicant is not entitled to reimbursement of these costs. In making this finding, I considered the fact that the Applicant's grounds for having filed their application with the Tribunal was resolved in the negotiation stage. It is undisputed that during the negotiation stage, MTCC 966 rectified their breach of the Act and provided the Applicant with the two Board Response Forms. MTCC 966 further consented to reimburse the Applicant their cost of \$25 for having filed this application. Despite MTCC 966's reasonable efforts to resolve the application in the negotiation stage, the Applicant requested that

MTCC 966 also reimburse their estimated proportionate share (\$7.10) of the legal fees. When MTCC 966 refused to reimburse the additional costs, the Applicant paid an additional \$50 to move their application to Stage 2 - Mediation. In essence, the Applicant paid \$50.00 to try and get \$7.10.

- [16] I am of the view that the Applicant's decision to move their application to Stage 2 - Mediation on the basis that MTCC 966 refused to reimburse their proportionate share of the legal fees in the amount of \$7.10 was unreasonable given the nominal amount.
- [17] Regarding MTCC 966's request that I make an order that the Applicant reimburse their legal fees in the amount of \$2,137.50, I find it appropriate to deny this request. While the Applicant's demands may have been unreasonable or misguided, his behaviour was cooperative during the process, despite his communication style, which could be characterized as frustration. Further, this was a process that took no more than a month to resolve. To order legal fees in the amount requested by the Respondent would be totally disproportionate to the issues before me, and certainly not conducive to improving the interactions within the condominium community.

D. ORDER

- [18] Within thirty (30) days of this order, the Respondent shall pay to the Applicant \$25 for the cost of filing this application.

Dawn Wickett
Member, Condominium Authority Tribunal

Released on: January 25, 2023