

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 15, 2023

CASE: 2022-00469R

Citation: Wang v. Carleton Condominium Corporation No. 95, 2023 ONCAT 25

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

Member: Marc Bhalla, Member

The Applicant,
Ming-Dong Wang
Self-Represented

The Respondent,
Carleton Condominium Corporation No. 95
Represented by Anna Iordanidi, Agent

Hearing: Written Online Hearing – December 21, 2022 to February 8, 2023
Online Video Conference – February 3, 2023 & February 6, 2023

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant owns and rents a unit in the Respondent condominium corporation. They were charged back costs related to a toilet leak in their unit. The Applicant seeks records about the leak and chargeback decision. They also seek a penalty totalling \$5000.
- [2] The Applicant requested a hybrid hearing. The Respondent agreed. To accommodate the Applicant's schedule, video hearing sessions were held over the Applicant's lunch hour. I commend the parties for their cooperation.
- [3] The Applicant wanted to include many witnesses in the hearing. These witnesses were unwilling to take part. Their proposed testimony was not relevant to the issues I had jurisdiction to decide. I did not require the proposed witnesses.
- [4] While I have reviewed all submissions, only those most relevant to my decision will be mentioned. References by the parties to prior stages of the Tribunal's process have been disregarded, as such are confidential.
- [5] Whether the Respondent can justify the chargeback is beyond the Tribunal's jurisdiction. The focus of this case is on what records the Applicant is entitled to, and if the Respondent refused to provide any without reasonable excuse.

[6] It seems the Applicant would like to establish the standard of records needed for the Respondent to chargeback for damage. The Respondent says it has provided all records it has. The Applicant has failed to prove that the Respondent has, or is required to have, anything further.

B. BACKGROUND

[7] On or around May 25, 2022, a leak was discovered from a toilet in the Applicant's unit. The Respondent held the leak responsible for damage to units several floors below. The Applicant wants to understand how the Respondent decided the leak in their unit was responsible for damage to other units. They want to understand the Respondent's decision making about the chargeback.

[8] While the Respondent has provided records, the Applicant does not feel enough has been provided to support the chargeback. The records provided include photos, meeting minutes, by-laws, invoices and notification of the leak.

C. ISSUES & ANALYSIS

Is the Applicant entitled to records they have not received? If so, has the Respondent refused to provide the Applicant with records they are entitled to?

[9] The Applicant seeks:

1. All photos taken related to the leak.
2. All communication with renovation and plumbing service providers about the leak.
3. All communications between directors and management about the leak and chargeback decision.
4. All meeting and discussion minutes about the leak.
5. All historic records related to similar leaks in other units.
6. An explanation with scientific description of how the damage claimed to other units was related to the leak.
7. Clarification of the superintendent's views about the leak in discussions with the Applicant.
8. The Board's written conclusion in response to the Applicant's arguments.
9. Inspection reports from contractors.

[10] While not in the Applicant's Request for Records, the Applicant also requested during the hearing:

10. May and June 2022 Board Meeting minutes.
11. Communications between the Respondent and its legal counsel.
12. Contracts with renovation and plumbing service providers.

[11] The Respondent stated:

1. All photos it has were provided to the Applicant on June 1, 2022.
2. Beyond what was provided, communications with contractors took place in-person or by phone. No further records exist.
3. Communications with directors and management took place in-person, not by email.
4. Meeting minutes have been provided.
5. No such records exist.
6. Beyond what has been provided, no records exist.
7. No such records exist.
8. Beyond what has been provided, no records exist.
9. Beyond what has been provided, no records exist.
10. While not specifically requested before the hearing, these were provided during the hearing.
11. While not requested before the hearing, this was provided during the hearing.
12. No service provider contracts related to leak damage exist. All related records have been provided.

[12] I find the Respondent's condominium manager credible in their claim that all leak-related records have been provided. The most reasonable explanation is the Respondent does not have more records about the leak.

[13] While the Applicant believes more documentation should exist to justify the chargeback, they have not pointed me to any requirement for the Respondent to have more records or evidence that proves the Respondent refused to provide records.

Should the Applicant be awarded a penalty?

[14] The Respondent has not refused to provide a record without reasonable excuse. There are no grounds to award a penalty.

D. ORDER

[15] The Tribunal orders the case dismissed.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: February 15, 2023