

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** March 24, 2023

**CASE:** 2022-00342R

**Citation:** Lawson v. Toronto Standard Condominium Corporation No. 2714. 2023 ONCAT 50

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

**Member:** Anna Boudria, Member

**The Applicant,**

Pamela Lawson

Self-Represented

**The Respondent,**

Toronto Standard Condominium Corporation No. 2714

Self-Represented

Submission Dates: March 1 – 15, 2023

### **DISMISSAL ORDER**

[1] The Applicant filed an application with the Condominium Authority Tribunal (CAT). The case proceeded to Stage 2 – Mediation on January 17, 2023.

[2] Under the CAT's Rules of Practice, the CAT can dismiss an application that it has no legal power to hear or decide. The Application was filed about the kind of records the condominium was keeping, obtaining copies of records, and whether an exemption covers a record. The problem description describes a records dispute. The Applicant alleges not receiving Performance Audit Tracking Summary, Tarion Warranty Form related to her resident questionnaire, Board and AGM minutes. Following clarification of issues and a review of 105 documents from the Applicant and Respondent, the CAT proposed to dismiss the application for the following reasons:

1. The Applicant filed this case as a records dispute but, the core issues dealt with the condominium governance, the Tarion Warranty Program in the removal of certain documents, the opportunity to meet with the condominium board, property manager and various third parties (vendor, contractors, Tarion, etc) to review log of 67 issues. In addition, confidentiality issues, unresponsiveness from the board and the requirement for a separate

communication protocol were additional identified issues.

2. The building repair period with Tarion conciliation period is currently still ongoing and has been extended.
  3. It appears that portions of this dispute relate to issues outside the CAT's jurisdiction, as set out under Ontario Regulation 179/17.
- [3] A Notice of Intent to Dismiss was issued to the parties on March 1, 2023. It asked the parties to respond to Rule 34 of the CAT Practice of Procedure. The parties were given an opportunity to provide their submissions. The Applicant did not participate in the process.
- [4] In their response to the Notice, the Respondent stated that on multiple occasions over 15 months including during this mediation, the Board has actively responded, and repeatedly readdressed issues brought to their attention. Further stating the Applicant was provided with all records that she was entitled to receive prior to filing the CAT application.
- [5] The Respondent has indicated that the records were available on the condominium web portal since July 28, 2021. The Respondent further maintained that requested documents were provided prior to the opening of the CAT application and as part of it.
- [6] After reviewing the application, response to the Notice and the associated documents, I am satisfied that the requested board and AGM minutes have been provided to the Applicant.

Genuine effort or has acted in good faith

- [7] The Respondent points to the CAT Rules of Practice that require parties make a genuine effort and act in good faith in mediation proceedings and not use the CAT process to circumvent the process. Specifically, that the Applicant has missed deadlines, communicated outside the platform and has failed to acknowledge or provide any further details to responses provided. The Respondent also noted that the Applicant had resumed emailing the property manager raising issues that had been addressed in mediation to be re-addressed.
- [8] Section 1.41 of the Condominium Act, 1988 state that:

The Tribunal may refuse to allow a person to make an application or may dismiss an application without holding a hearing if the Tribunal is of the opinion that the subject matter of the application is frivolous or vexatious or that the application has not been

initiated in good faith or discloses no reasonable cause of action. 2015, c. 28, Sched. 1, s. 6.

- [9] This Tribunal Rules of Practice, specifically Rule 34.3 states that CAT can dismiss an application or case at any time:
- (f) the Mediator dismisses the Case (e.g., because the Mediator determines the Case was filed for an improper purpose or that the CAT does not have jurisdiction to deal with the issues in dispute)
- [10] Further, Rule 11.2 states that every party must check the CAT-ODR system and their email for communication at least once every weekday, or as directed by the CAT.
- [11] The jurisprudence of the CAT is clear that it will exercise its powers to provide a fair, focused and efficient process in each case and that bringing a proceeding for an improper purpose such as to harass or oppress a party will not be permitted.
- [12] The Respondent highlighted that it has spent a significant amount of time reviewing the copious amount of email correspondences from the Applicant.
- [13] The Applicant has not participated in the forum since February 9, 2023 and continued to communicate with the CAT staff and the property manager on matters that were addressed. There was no reason that prevented the Applicant from participating on the CAT online forum.
- [14] On February 12, 2023, the Applicant forwarded a message to the CAT staff seeking a lengthy adjournment of six weeks. I denied the adjournment request, as noted earlier, the Applicant received all requested records, and the remaining issues were outside the CAT's jurisdiction.
- [15] The Applicant was afforded several extensions to raise any outstanding issues and chose not to do so. Instead, she continued to engage with the CAT staff to pursue the original adjournment request. The CAT staff reiterated they could not grant adjournments and encouraged her to raise her concerns with the mediator.
- [16] Despite numerous attempts to have the Applicant re-engage in the process, no progress had been made in weeks.
- [17] I do find that the Applicant has not made a genuine effort nor have they acted in good faith as there has been no discussion since February 9, 2023 on the CAT platform. Instead, she continually seeks to escalate issues before various parties to be re-addressed in the hopes that she will receive a different response.

[18] I am satisfied that the requested board and AGM minutes have been provided to the Applicant. The Applicant did not provide any further information to justify keeping the case open.

[19] Accordingly, I order that this case be dismissed.

**ORDER**

[20] The Tribunal orders that:

1. This case is closed in Stage 2- Mediation under Rule 34.3 of the CAT's Rules of Practice.
2. Any documents and messages that have been shared for this case in Stage 1- Negotiations and / or Stage 2- Mediation are private and confidential. This means that the Parties cannot share, or tell anyone about messages or documents they received from the other Party during these proceedings or throughout these different stages without the permission of the other Party.
3. The Users may share a copy of any document they received during the course of this case if required by law, such as to a government organization or a court.

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Anna Boudria  
Member, Condominium Authority Tribunal

Released on: March 24, 2023