

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** June 5, 2023

**CASE:** 2022-00762N

**Citation:** Ambrose v. Campeau et al., 2023 ONCAT 75

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

**Member:** Brian Cook, Member

**The Applicant,**  
Stephanie Ambrose  
Self-Represented

**The Respondents,**  
Eric Campeau  
Not participating

Serge Bedard  
Self-Represented

**The Intervenor,**  
Prescott Standard Condominium Corporation No. 19  
Not participating

**Hearing:** Written Online Hearing – April 6, 2023 to May 5, 2023

### **REASONS FOR DECISION**

#### **A. INTRODUCTION**

[1] Stephanie Ambrose is the owner of a unit in Prescott Standard Condominium Corporation No. 19 (“PSCC 19”). Serge Bedard is the owner of the unit below the unit owned by Ms. Ambrose. Both owners rent their units to tenants. In this Application, Ms. Ambrose alleges that her tenants are regularly disturbed by unreasonable noise caused by Mr. Bedard’s tenant, Eric Campeau.

[2] The Application names Mr. Bedard and Mr. Campeau as respondents. Mr. Bedard joined the case, but Mr. Campeau did not. PSCC 19 joined the case as an intervenor but did not participate. The Notice of Application, the warning letters advising Mr. Campeau to join the case, and the letter advising him that the case would proceed to adjudication which could take place in his absence, were delivered to Mr. Campeau by Ms. Ambrose.

[3] I find that Mr. Campeau has had knowledge of this Application and has chosen to

not participate.

**B. BACKGROUND**

- [4] Ms. Ambrose purchased the unit in January 2022 and, following a renovation, rented the unit to tenants as of March 15, 2022. Within a few weeks, the tenants complained to Ms. Ambrose about noise coming from the unit occupied by Mr. Campeau.
- [5] On June 8, 2022, Ms. Ambrose wrote to the board of the Condominium, advising them that there were continuing complaints of noise and disruption caused by Mr. Campeau. She noted that the police had been called but the disturbances had continued. The evidence I have been provided with indicates that the board did not respond.
- [6] Ms. Ambrose wrote to Mr. Bedard on August 22, 2022. She included complaints from her tenants. Mr. Bedard responded on August 28, stating that he would start the process to evict Mr. Campeau. However, he did not do that for several months.
- [7] In November 2022, Ms. Ambrose and Mr. Bedard communicated again. She provided more complaints from her tenants. She advised that she had requested police records. Ms. Ambrose did receive some records from the police after filing a freedom of information request, but they were almost completely redacted because she was not directly involved in the police visits.
- [8] In January 2023, Mr. Bedard initiated the process to seek an eviction order. He learned that he was first required to give Mr. Campeau a notice using the Landlord and Tenant Board (LTB) form "N5", and this was served on Mr. Campeau on January 24, 2023. Once an N5 form is served, a second N5 notice can be served within seven days if the problem is not resolved. After that, the landlord can apply to the LTB to seek an eviction order. Mr. Bedard served the second N5 form and contacted the LTB only to learn that because of the LTB's backlog, it would take up to seven months for the case to be dealt with.
- [9] During the renovations that took place between January and March 2022 (before the unit was rented), the contractor accidentally caused some water damage in the unit owned by Mr. Bedard. In a written statement filed by Ms. Ambrose, the contractor indicates that he arranged to attend the unit to fix the damage on three occasions but was not admitted by Mr. Campeau. He further indicates that he was subjected to verbal abuse and threats by Mr. Campeau during the renovation and would not feel safe doing the repairs alone and would prefer to wait until Mr. Campeau is no longer in the unit.
- [10] Ms. Ambrose's tenants advised her that they could not tolerate the continuing noise and disruption and indicated they would be leaving the unit on March 15, 2023.
- [11] On May 18, 2023, Ms. Ambrose advised that she had rented her unit to new

tenants in April after disclosing the situation with Mr. Campeau. The new tenants gave notice that they will move out at the end of July 2023 because they cannot tolerate the noise and disruption caused by Mr. Campeau. Ms. Ambrose requests compensation for lost rent from August 1, 2023, until such time as Mr. Campeau is no longer in Mr. Bedard's unit.

### **C. ANALYSIS**

- [12] I find that the evidence provided by Ms. Ambrose establishes that Mr. Campeau has regularly created unreasonable noise that has been significantly disturbing to the tenants in the unit owned by Ms. Ambrose. By not joining the case, Mr. Campeau has given up his right to challenge that evidence.
- [13] The evidence provided shows that Mr. Campeau regularly yells and bangs on the ceiling of his unit (which is the floor of Ms. Ambrose's unit). This happens especially at night, disrupting the sleep of the tenants. Much of the verbal disruption includes foul and threatening language. Sometimes, Mr. Campeau would come to the door of Ms. Ambrose's unit and bang on the door while shouting abuse and threats. The statement from the tenants indicates that they called the police on 17 occasions. The police would visit and talk to Mr. Campeau, but the disruption would continue, sometimes even worse than before the visit. A by-law officer was involved but was unable to bring any relief. The tenants eventually found the situation to be intolerable because of the effect on their health and concerns about their personal safety. They advised Ms. Ambrose that they would have to leave before the end of the tenancy agreement. Ms. Ambrose indicated that as a result, the tenants lost their last month's rent payment.
- [14] Ms. Ambrose rented her unit again in May 2023, but the new tenants have given notice that they cannot tolerate the continued disruption and will move out at the end of July 2023.
- [15] The evidence suggests that it is possible that Mr. Campeau may have a disability which causes or contributes to his behaviour. However, if so, this does not appear to be a case that requires accommodation under the Human Rights Code. Firstly, Mr. Campeau has not engaged in this process or any of the measures that have been taken to address the problem. Secondly, to the extent that it might be possible to accommodate any disability-related behaviour, it not reasonable that the accommodation be borne by the tenants in Ms. Ambrose's unit.
- [16] The evidence that has been provided to me in this case indicates that Mr. Bedard failed to address the significant concerns about his tenant in a timely way. By at least August 2022, he was aware of the complaints from Ms. Ambrose's tenants about the disturbance caused by his tenant. He said at that time that he would start the eviction process, but he did not do so until January 2023.
- [17] In a direction to the parties, I invited Mr. Bedard to provide evidence and arguments addressing anything he has done to seek Mr. Campeau's compliance

with the PSCC 19's rules. He provided a statement that indicates that he delayed in starting the eviction process because he was waiting for information from Ms. Ambrose to document the visits by the police. I note however, that Ms. Ambrose had earlier told him that it was difficult to obtain records from the police because she was not directly involved. It seems to me that the documented complaints from Ms. Ambrose's tenants ought to have provided a sufficient basis to start the eviction process. Had the process been commenced in August, the matter would likely have been dealt with by the LTB by now.

[18] After Ms. Ambrose advised that her new tenants have given notice that they cannot continue to live in her unit, I invited Mr. Bedard to provide any additional evidence or argument concerning anything he has done to address his tenant's behaviour, and Ms. Ambrose's request for compensation for lost rental income. He did not respond.

[19] I am concerned that PSCC 19 may also have failed to be more engaged in dealing with what is clearly a significant problem. Although the Condominium joined the case as an intervenor, it has not participated or responded to requests for information. Condominiums have a positive obligation to ensure that the Act, declaration, by-laws and rules are followed, particularly if others are impacted by non-compliance.

#### **D. CONCLUSIONS**

[20] Section 117(2) of the Condominium Act 1998 (the "Act") states:

(2) No person shall carry on an activity or permit an activity to be carried on in a unit, the common elements or the assets, if any, of the corporation if the activity results in the creation of or continuation of,

(a) any unreasonable noise that is a nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation...

[21] On the basis of the evidence before me, I find that Mr. Campeau is in contravention of section 117(2)(a). He has created unreasonable noise that is disruptive to his neighbours. Mr. Campeau is ordered to immediately stop making unreasonable noise that is disruptive to others.

[22] Section 119(2) of the Act states:

(2) An owner shall take all reasonable steps to ensure that an occupier of the owner's unit and all invitees, agents and employees of the owner or occupier comply with this Act, the declaration, the by-laws and the rules.

[23] On the basis of the evidence before me, I find that Mr. Bedard did not take reasonable steps to ensure that Mr. Campeau complied with the Act and governing documents in a timely fashion. He has however, now taken action by starting the process before the LTB.

- [24] Mr. Bedard is directed to keep Ms. Ambrose and the Condominium informed of the progress of the LTB application and to provide them with copies of any correspondence he receives from the LTB and that he sends to the LTB.
- [25] In her final submissions about remedy, Ms. Ambrose proposes that Mr. Bedard should provide Mr. Campeau with the governing documents of the Condominium and meet with him to ensure that Mr. Campeau understands the requirements of living in the building. I agree that this is appropriate and is in fact something Mr. Bedard is required to do by the Condominium's Rules. I direct Mr. Bedard to provide Mr. Campeau with a written copy of the declaration, by-laws, and rules and to make sure that Mr. Campeau understands that he has not been following the requirements. Mr. Bedard shall also provide a copy of this decision to Mr. Campeau.
- [26] As noted, I am concerned that PSCC 19 has not been more actively involved in dealing with this situation. PSCC 19 is directed to monitor the progress of the application at the LTB and to consult with Ms. Ambrose and Mr. Bedard to determine if it can do anything to assist with any continuing issues if Mr. Campeau continues to cause disruption. PSCC 19 is further directed to investigate the complaints made by Ms. Ambrose and to ensure that it uses its powers to ensure that Mr. Campeau and Mr. Bedard are in compliance with the Act, the declaration, bylaws and rules. PSCC 19 shall provide to Ms. Ambrose copies of any communications relevant to its investigation.
- [27] In her submissions on remedy, Ms. Ambrose suggested that the tenants who were in her unit until March 2023 should be compensated for the one month rent that they had to forgo because they had to leave before the end of the lease and for moving costs. Section 1.44(1) of the Act does give the Tribunal the authority to direct a party to pay compensation for damages, but only those damages that have been incurred by another party to the proceeding. The tenants are not a party to the case.
- [28] Ms. Ambrose also submits that if the contractor is not able to complete the repairs by July 2023, then an order finding no continuing liability for the damage done during the renovations would be appropriate. However, the contractor is not a party to this proceeding and so an order respecting him is not something that the Tribunal has jurisdiction over.
- [29] In her submissions after the new tenants advised they will leave as of the end of July 2023, Ms. Ambrose argues that she will not be able to rent the unit as long as Mr. Campeau is in the unit and seeks compensation for lost rental income from August 2023 until Mr. Campeau is no longer in the unit. The unprecedented backlog at the LTB makes it difficult to predict what will happen with the application that Mr. Bedard has initiated at the LTB, and when it might be dealt with. Mr. Bedard filed the Application in January 2023 and was advised that there would be a seven-month delay before it would be dealt with.

- [30] A recent report from the Ontario Ombudsman “Administrative Justice Delayed, Fairness Denied”, released on May 4, 2023, indicates that as of February 2023, landlord applications at the LTB were generally being scheduled for hearing within six to nine months of receipt.<sup>1</sup> The Ombudsman reports that after a hearing is scheduled and heard there can be further significant delays before a decision is issued. The LTB’s service standard for issuing an order after a hearing was reported to be 30 days for most landlord applications but the Ombudsman found that this was not being met in a significant number of cases<sup>2</sup>
- [31] These circumstances make it difficult to predict when Mr. Bedard’s application will be heard and decided by the LTB. As noted, if Mr. Bedard had initiated the process in August 2022 when he first indicated he would do so, the matter would likely have been resolved by now. The application was filed in January 2023. Assuming a seven-month delay in scheduling a hearing would suggest that the hearing might be scheduled in July 2023. If the LTB was able to meet its service standard, a decision could be issued in August 2023. Assuming that Mr. Campeau were to continue to make unreasonable noise and disturbance leading to an eviction order, there could be a further delay before he vacates the unit. All of this means that it is more likely than not that Ms. Ambrose will incur lost rental income of at least one month after the current tenants leave at the end of July.
- [32] As noted above, section 1.44(1) of the Act, provides that after a hearing, the Tribunal may direct a party to the proceeding to pay compensation for damages incurred by another party to the proceeding for an act of non-compliance. Mr. Bedard and Ms. Ambrose are parties to this proceeding. I have found that Mr. Bedard was not in compliance with his obligations under the Act, the declaration and the rules in ensuring that his tenant did not unreasonably disturb others. I have found that Ms. Bedard will incur damages of at least one-months rental income in the amount of \$1,350. I order Mr. Bedard to pay Ms. Ambrose \$1,350 within 30 days of the date of this decision.
- [33] Rule 48 of the Tribunal’s Rules of Practice provide that if a party is successful then her Tribunal filing fees should be reimbursed. Ms. Ambrose has been successful and has paid \$150 in filing fees (\$25 for the initial filing and \$125 for moving the case to adjudication). In the circumstances of this case, I find that Mr. Bedard should reimburse Ms. Ambrose for those fees on the basis that if he had acted in a more timely fashion, the Application may not have been necessary.

## **E. ORDER**

[34] The Tribunal Orders that:

1. Mr. Campeau shall immediately stop making unreasonable noise that is

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<sup>1</sup> Ombudsman Ontario Administrative Justice Delayed, Fairness Denied, paragraph 6

<sup>2</sup> Ibid. paragraph 238

disruptive to others.

2. Within 10 days of the date of this Decision, Mr. Bedard shall provide Mr. Campeau with a copy of this decision, the Condominium's declaration, bylaws and rules and to make sure that Mr. Campeau understands that he has not been in compliance. Mr. Bedard shall advise Ms. Ambrose in writing when he has done that.
3. Within 30 days of the date of this Decision, Mr. Bedard shall pay Ms. Ambrose \$150, representing the costs of filing this Application, and \$1350 representing lost rental income because of the disruption and unreasonable noise caused by Mr. Bedard's tenant.

[35] Within two weeks of the date of this Decision, the Condominium Board shall consult with Ms. Ambrose and Mr. Bedard to determine if it can do anything to assist with any continuing issues if Mr. Campeau continues to cause disruption. This should include consulting on any other legal remedies that may be available to enforce this Decision. PSCC 19 is further directed to investigate the complaints made by Ms. Ambrose and to ensure that it uses its powers to ensure that Mr. Campeau and Mr. Bedard are in compliance with the Act, the declaration, bylaws and rules. PSCC 19 shall provide to Ms. Ambrose copies of any communications relevant to its investigation.

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Brian Cook  
Member, Condominium Authority Tribunal

Released on: June 5, 2023