

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: September 5, 2023

CASE: 2022-00154N

Citation: Mortazavi v. Toronto Standard Condominium Corporation No. 2048 et al.,
2023 ONCAT 126

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

Member: Nicole Aylwin, Member

The Applicant

Houman Mortazavi

Represented by Mogjan Yousefi, Agent

The Respondents,

Toronto Standard Condominium Corporation No. 2048

Represented by Megan Mackey, Counsel

Yin Li

Unrepresented/Did Not Appear

Submission dates: August 16, 2023 to August 28, 2023

DISMISSAL ORDER

- [1] Under Rule 43.1 of the Tribunal's Rules of Practice, the Tribunal can close a case in Stage 3 – Tribunal Decision if the Tribunal determines that the Applicant has abandoned their case.
- [2] The Applicant, Houman Mortazavi, filed two cases with the CAT on April 13, 2022. At that time Mr. Mortazavi and the Respondent, Toronto Standard Condominium Corporation No. 2048 ("TSCC 2048") were involved in another Tribunal case filed by TSCC 2048. On June 27, 2022, the Tribunal issued an order that both of the cases filed by Mr. Mortazavi be adjourned while the already commenced case was adjudicated.¹

¹ Mortazavi v. Toronto Standard Condominium Corporation No. 2048 et al., 2022 ONCAT 69

- [3] On March 6, 2023, the Tribunal notified the parties that the Tribunal intended to resume this case as of March 15, 2023. The parties were informed that a Tribunal Member would be assigned and the Stage 3 hearing would commence.
- [4] I was assigned to this case and on March 22, 2023, I opened the hearing on the Tribunal's Online Dispute Resolution system ("ODR system") with a message asking the parties to introduce themselves and read the instructions I provided for Stage 3 – Tribunal Decision.
- [5] When the hearing was opened, both Mr. Mortazavi and TSCC 2048 had joined the case via ODR system. The second Respondent, Ying Li had not joined the case.
- [6] By March 28, 2023, only TSCC 2048 had replied to my opening message so I asked the Tribunal clerks to reach out to Mr. Mortazavi and Ms. Li to ensure they were aware that the hearing had begun, that they must use the ODR system to communicate and participate in the case and that they must adhere to deadlines. I also posted a message to this effect in the ODR system and further explained the importance of communicating within the ODR system, so that all parties in the hearing can see all communications, ensuring fairness, transparency, and completeness of the Tribunal record.
- [7] The Tribunal staff sent this message, as requested. I was then advised that the Tribunal clerks had received an email indicating Mogjan Yousefi (Mr. Mortazavi's wife) would represent Mr. Mortazavi in this hearing.
- [8] Ms. Li never joined the case and did not participate in this hearing.
- [9] To help facilitate Ms. Yousefi's participation, I requested the clerks provide Ms. Yousefi with instructions on how to join the ODR system and to inform her that she needed to use the ODR system to communicate about the hearing. I also posted another message in the ODR system advising the parties that going forward they must use the ODR system to communicate about the case.
- [10] In addition to these first reminders, Ms. Yousefi was advised several more times throughout the proceeding that she was required use the ODR system to communicate about the case, file documents and evidence, and make motions or requests. She was also explicitly told that the Tribunal clerks would not be forwarding correspondence sent to them for me to review and was also advised
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that only those requests, documents, and communications made properly within the ODR system would be considered.

- [11] I provided several days for Ms. Yousefi to get set up on the system and review and reply to the messages already posted and on April 13, 2023, Ms. Yousefi began communicating about the case in the ODR system on behalf of the Applicant. She did so by making several requests for immediate relief orders as well as a request for an adjournment until July 24, 2023.
- [12] On June 26, 2023, after addressing several additional preliminary matters, I granted the request for adjournment. I adjourned the hearing until July 25, 2023, and advised that the Applicant should be ready to bring his case forward upon resumption of the hearing.
- [13] On July 25, 2023, I reopened the hearing and provided detailed instructions on how the Applicant was to make submissions and provide evidence. Neither Mr. Mortazavi or Ms. Yousefi made any comments about the instructions nor asked any questions about the process. I set the deadline for the filing of submissions on the ODR system for August 15, 2023.
- [14] On August 15, 2023, I posted a reminder in the ODR system that the Applicant's submissions were due by the end of the day.
- [15] No submissions were received from the Applicant.
- [16] On August 16, 2023, I issued a Notice of Intent to Dismiss ("NOID"). I uploaded this notice to the ODR system documents tab and I posted a message in the ODR system advising the parties that I had issued the NOID. I asked them to review the notice and the instructions contained within it and respond accordingly. In the NOID, Mr. Mortazavi was directed to make his submissions by August 24, 2023. I also left the hearing messages open so that at any time the parties could communicate with me about the NOID or the proceeding.
- [17] No messages were posted by Mr. Mortazavi or Ms. Yousefi and they made no submissions on the NOID by the deadline, or to date.
- [18] Only TSCC 2408 responded to the NOID, submitting that the application should be dismissed because the Applicant failed to pursue the matter.
- [19] I find that in this case, Mr. Mortazavi has failed to take the actions required to actively participate in this hearing. He has made no submissions on his application, no submissions on the NOID and posted no communications regarding his failure to participate. As such, I find that this case has

been abandoned.

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

ORDER

[21] The Tribunal orders that:

1. This case is closed in Stage 3 - Tribunal Decision under Rule 43.1 of the CAT's Rules of Practice.

Nicole Aylwin
Member, Condominium Authority Tribunal

Released on: September 5, 2023