

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** September 8, 2023

**CASE:** 2023-00005R

**Citation:** Jackson v. Simcoe Condominium Corporation No. 69, 2023 ONCAT 128

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

**Member:** Marisa Victor, Member

**The Applicant,**  
Elizabeth Jackson  
Self-Represented

**The Respondent,**  
Simcoe Condominium Corporation No. 69  
Represented by Jessica Laker, Agent

**Motion Hearing:** Written Online Hearing – July 18, 2023 to September 6, 2023

### **REASONS FOR DECISION**

#### **A. INTRODUCTION**

- [1] The Respondent, Simcoe Condominium Corporation No. 69 (“SCC 69”), is asking for this hearing before the Condominium Authority Tribunal (“CAT”) to be adjourned pending the outcome of two related cases at the Ontario Superior Court of Justice – Small Claims (“Small Claims”).
- [2] The issue before the CAT relates to two record requests sent by the Applicant, Elizabeth Jackson, to the Respondent on September 8 and 9, 2022.
- [3] For the reasons set out below, the request to adjourn the CAT hearing pending the outcome of the two Small Claims cases is denied. The hearing before the CAT shall proceed.

#### **B. SUBMISSIONS & ANALYSIS**

- [4] The Respondent says that the hearing should be adjourned for these main reasons:
1. The Applicant is cross-referencing material between the CAT case and the two Small Claims cases as evidenced by the Applicant uploading her Small

Claims materials as her disclosure;

2. The multiple venues are confusing and costly to the Respondent;
  3. It is difficult to draw the line between the three cases.
- [5] The Applicant opposes the Respondents motion and wishes this case to proceed.
- [6] The Applicant says when she initially filed her application before the CAT and Small Claims she was confused about jurisdiction. She says she now understands she can only pursue the record requests before the CAT and not before the Small Claims court. She said she will correct her pleadings at Small Claims if necessary to make that clear. In addition, she says she needs the records requested through the CAT case to support her Small Claims case where she is pursuing damages for defamation and loss of use and enjoyment of her unit.
- [7] Both parties made further submissions on the willingness, or lack thereof, to settle. This is something that could be canvassed during a mediation. I did not consider these submissions as settlement discussions are confidential. It is obvious, since we have reached the hearing stage, that a settlement was not reached.
- [8] There were also further submissions regarding the choice of the Applicant's witness. This is not relevant to whether or not an adjournment is granted. I have not considered these submissions.
- [9] The case before the CAT is clear. It relates to whether or not the Applicant is entitled to the records that she has requested and the adequacy of those records.
- [10] The hearing has already begun, and we had already progressed to witness cross examinations. After cross-examination, the only remaining part of the hearing would be the party's submissions. This matter should proceed because it will likely resolve before the Small Claims cases and has no bearing on them.
- [11] I must caution both parties that their actions may trigger costs at the end of this hearing. The Applicant's submissions may demonstrate that she is seeking documents through the CAT for the purpose of litigation. This may be considered an improper purpose and may disentitle her to the documents as well as result in costs against her. The respondent's representative appears to have delayed these proceedings as she has had significant issues complying with the deadlines. Both parties have made accusations pertaining to each other and their witnesses. The parties are reminded that the CAT jurisdiction is only over whether the Applicant is entitled to the four records she has requested pursuant to the provisions of the *Condominium Act, 1998* (the "Act").

[12] The CAT is committed to promoting a fair, timely and efficient resolution of disputes within our narrow jurisdiction. While in some cases an adjournment would help attain these goals, here it is not clear that a resolution of the Small Claims cases would resolve this CAT case. Further, I do not have a timeline for the resolution of the Small Claims cases. This CAT case cannot be held in abeyance indefinitely.

[13] It is in the best interests of the parties and the CAT that this hearing continue.

**C. ORDER**

[14] The Tribunal denies the motion to adjourn.

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Marisa Victor  
Member, Condominium Authority Tribunal

Released on: September 8, 2023