

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 2, 2023

CASE: 2023-00232N

Citation: Roszak v. Peel Standard Condominium Corporation No. 1059, 2023 ONCAT 140

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

Member: Ian Darling, Chair

The Applicant,

Peter Roszak
Self-Represented

The Respondent,

Peel Standard Condominium Corporation No.1059
Represented by Bradley Chaplick, Counsel

MOTION ORDER

- [1] On September 7, 2023 the Respondent requested that the CAT dismiss a case in Stage 1 Negotiation due to inactivity. The Respondent said that the last message posted by the Applicant occurred on June 26, 2023. Since that time the Respondent had posted one message, and the Applicant had uploaded some documents.
- [2] The Tribunal Rules allow for the CAT to close a case due to inactivity, and to dismiss cases that are submitted for an improper purpose. The Tribunal sent automated warning notices to the parties in July, August and September. The notices stated that the case would be closed following 30 days of inactivity. By uploading documents, the Applicant re-set the activity timer.
- [3] In response to the Motion, the Applicant stated that the case was taking longer due to the delays on the Respondent's part. The Applicant requested a two-week extension to allow time to secure legal counsel.
- [4] I have reviewed the negotiation history and can see that the parties actively engaged in negotiation from when the negotiation started in late April, until mid-June where it slowed down. I can see that both parties negotiated collaboratively with a genuine effort to resolve the situation – by exchanging messages and settlement offers.
- [5] There is no evidence that the Applicant submitted the case for an improper purpose. The case was filed under the Tribunal's jurisdiction to deal with noise

activities that cause a nuisance, and efforts to negotiate a resolution have been focussed on addressing the alleged nuisance.

- [6] I have determined that it would be premature to close the case immediately. I do note however, that the negotiations have been inactive since June 2023. I will grant the Applicant 15 days from when this order is released to decide if they want to pay the fee to move the case into Stage 2 – Mediation. If the Applicant does not pay the fee on time, the case will be closed as abandoned.
- [7] The Applicant requested that the Tribunal restrict access to this order for “privacy reasons.” When asked to provide further information regarding the request, the Applicant was unable to provide any relevant justification to support the request. The CAT is required to publish its decisions and orders, and the test for a confidentiality order is a high threshold. The Applicant prefers that the decision be private, but that preference does not trump the legislated requirement of the CAT to publish its orders.
- [8] I further note that the Respondent indicated a concern that the case is not within the Tribunal’s jurisdiction – because the dispute which is framed as a noise dispute is actually about an alleged construction defect. The Respondent signaled an intent to bring a separate motion to dismiss the case under jurisdictional grounds. I have declined to hear or decide that motion at this point – because it would require a more formal process of engaging with the substance of the dispute. The Respondent is open to bringing the motion should the case proceed to the next stage.

ORDER

- [9] The Respondent’s motion to dismiss the case is denied.
- [10] The Applicant must however pay the fee to move this case to Stage 2 - Mediation within 15 days of the date of this order. If the Applicant does not move the case to Stage 2 - Mediation, the case will be closed automatically.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: October 2, 2023