

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 13, 2024

CASE: 2022-00769N

Citation: Bali v. Toronto Standard Condominium Corporation No. 1905, 2024 ONCAT 21

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicant,

Mohit Bali

Self-Represented

The Respondent,

Toronto Standard Condominium Corporation No. 1905

Written Submission Dates: January 16 - February 4, 2024

MOTION ORDER

- [1] Mohit Bali (the “Applicant”) filed an application with the Condominium Authority Tribunal (CAT) on December 25, 2022. The case was not accepted because it was not clear that the CAT had the authority to decide the issue. The CAT requested the Applicant provide additional information. The Applicant did not respond until July 2023. The Applicant only responded after receiving a notification that the CAT would close the draft application due to inactivity.
- [2] The Applicant revised the application. The CAT identified additional concerns with it. Following a Notice of Intent to Dismiss the case, the Tribunal allowed the Application to proceed and provided additional orders to ensure the case remained within the CAT jurisdiction¹.
- [3] The case proceeded to Stage 1 – Negotiation on December 13, 2023. There was no activity in the case for 30 days, so the case closed automatically on January 13, 2023 under Rule 30.1 (d) of the CAT Rules of Practice. The Rule states that the “CAT will end Stage 1 and close the Case if: ...”(d) there has been no activity on the Case by any Party in the CAT-ODR system for more than 30 days.” On

¹ Bali v. Toronto Standard Condominium Corporation No. 1905 - 2023 ONCAT 190 - 2023-12-05

January 14, 2024, the Applicant made a motion to reopen the case and adjourn it until July 2024.

- [4] The CAT gave the Applicant an opportunity to explain why he thought the case should be reopened. The Applicant missed the submission deadline of February 4, 2024, but replied on February 6, 2024. The Applicant's submissions were considered as part of this process. The Respondent was also given the opportunity to provide submissions. The Respondent was advised that if they did not respond, the CAT could make a decision in their absence. The Respondent did not provide any submissions.
- [5] There are two motions to be considered. The first is whether the case should be reopened following a closure for non-activity. The second is whether the case should be adjourned until July.
- [6] The Applicant has provided an explanation of why there was no activity in the case for 30 days. The Applicant demonstrated that they had sent an email to Tribunal Staff within the 30-day period. This is not considered "activity" with respect to Negotiating a resolution to the case – however, I accept the Applicant's submission that under these unique circumstances it could be considered case-related "activity" under the Tribunal Rules. I also note that the Tribunal responded to the Applicant's emails to reiterate the expectation to be "active" in the case and advised that the consequence of inactivity would be that the case would close. If this were the only issue, I might consider allowing the case to be reopened to allow the parties an opportunity to work collaboratively to resolve the issues in dispute in Stage 1 – Negotiation, and to resolve it through the subsequent stages of the dispute resolution process if they are unable to resolve it in Stage 1. However, in this case, I must also consider the adjournment request.
- [7] Each adjournment request is based on the specific facts of the case. In deciding whether to grant the adjournment, I have considered the following factors:
1. The age of the file;
 2. Whether any previous adjournments have been granted;
 3. Prejudice to the parties;
 4. Whether the request is on consent;
 5. The specific reasons for being unable to proceed;
 6. Whether the reason for the adjournment was foreseeable and avoidable, and what efforts, if any, were made to avoid the reason for the adjournment;
 7. The length of the requested adjournment and whether it would unduly delay the proceedings; and
 8. Any other factors considered relevant in deciding the request.
- [8] In this case, the Applicant alleges that the Respondent allows other unit owners to harass the Applicant when he uses the condominium's gym and therefore appears

to fall under the Tribunal's jurisdiction over disputes related to provisions that prohibit, restrict or otherwise govern any other nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.

- [9] The original application was filed in December 2022. If I grant the adjournment, over a year and a half will have passed between the original application and when the case is to resume. It is not clear to whether the activity in question is still ongoing. I have concerns that the delay may cause prejudice to the Respondent as it may be difficult to respond to the specific incidents which may have occurred prior to December 2022.
- [10] This is the first request to adjourn this case. The CAT has previously accommodated requests for extensions to timelines for responses – but has not granted any prior adjournments of the case.
- [11] Since the case closed in Stage 1 – Negotiation, the CAT has not assigned any Members to the case. Therefore, adjourning the case will not have any significant impact on any existing timeline or Tribunal resource.
- [12] It is relevant that the Applicant took no action between February and July 2023 to correct errors in the original application, and only did so when the CAT advised that the application would be dismissed for inactivity. The Applicant has only acted in response to the Tribunal initiating processes to close or dismiss the case. The purpose of the Tribunal is to resolve disputes in a timely and efficient manner. This also requires the parties to be active and engaged participants through the process.
- [13] The Applicant requested the case be reopened as part of an accommodation due to a disability. I note that the Applicant has previously requested the Tribunal vary specific deadlines as accommodations. I have varied submission deadlines on a case-by-case basis as I have considered this and previous motions. If the Applicant would like the Tribunal to create a disability accommodation plan, he should review the CAT accommodations policy² and request accommodations so the Tribunal can accommodate the disability and ensure consistent accommodations.
- [14] Based on the above, I have decided not to grant the adjournment and therefore the case will remain closed. However, I am prepared, under Rule 4 of the CAT Rules, to vary CAT Rule 47.2 related to re-opening closed cases³. I will allow the

²Condominium Authority of Ontario Accommodations Policy and Procedure

<https://www.condoauthorityontario.ca/wp-content/uploads/2023/07/Public-Accommodations-Policy-April-2023-1.pdf>

³ 47.2 A Party has 15 days after the Case has closed to request that it be re-opened. The Party must deliver their request to the other Parties and to the CAT. The Party's request must give details about:

Applicant to request that the case be reopened at any time between the date of this order and 31 July 2024.

- [15] If the Applicant submits a request, the case will not be reopened automatically. The CAT will need to consider if the case can proceed due to the time that has passed since the Application was filed, and the fairness to the parties. If there is a request, the CAT will ask for submissions from both parties. The CAT may identify factors to be considered in deciding the request.
- [16] The Applicant must make a request to the CAT to reopen the case by July 31, 2024.
- [17] If the CAT determines that the Case will be reopened, the issues in dispute will remain limited to the issues related to the corporation's responsibilities to enforce compliance with its rules to prevent an unreasonable nuisance, annoyance or disruption with respect to the condominium's gym facilities. Any new issues would need to be subject to a new application to the CAT.
- [18] I reiterate the directions from the previous motion decision. The Applicant uploaded numerous documents with the application. Many of these documents were in support of issues that are not within the Tribunal's jurisdiction. If the case is reopened, and proceeds to mediation or adjudication, the CAT Members assigned may issue orders or directions to ensure documents in the case are relevant to the issues to be decided and may disallow documents that are not. The CAT Members may also issue orders or directions to ensure the case remains within the Tribunal's jurisdiction.
- [19] Further, I note that the Applicant has uploaded several documents related to disputes with the corporation from 2019 and 2020. The incidents occurred more than two years before the application was filed. The CAT does not have the authority to accept disputes that are outside of the time limit established by section 1.36(6) of the Act.

ORDER

- [20] The motion to reopen the case and adjourn the proceedings until July 2024 is denied. The case will remain closed, but the Applicant may make a motion to reopen the case before July 31, 2024.

Ian Darling

- (a) why the Party failed to appear or participate, or failed to respond; and
(b) why it is unfair for the Party if the Case is not reopened.

Chair, Condominium Authority Tribunal

Released on: February 13, 2024