

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: March 7, 2024

CASE: 2024-00106R

Citation: Soper v. Muskoka Common Elements Condominium Corporation No. 71,
2024 ONCAT 33

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

Member: Ian Darling, Chair

The Applicant,

Ellen Soper

Self-Represented

The Respondent,

Muskoka Common Elements Condominium Corporation No. 71

Submission Dates: February 27, 2024 to March 5, 2024

DISMISSAL ORDER

[1] This case is dismissed under Rule 19.1 of the CAT's Rules of Practice for the following reasons:

1. The Applicant filed a records case regarding their Request for Records submitted on November 7, 2023 on the mandatory form.
2. The Applicant received a response from the Respondent on December 6, 2023 on the mandatory Board's Response to Request for Records form ("Response").
3. Section 13.10 (1) of the Ontario Regulation 48/01 (O. Reg 48/01) states that a request for records shall be deemed abandoned and have no force and effect if, within 60 days of receiving the board response, the requester does not apply to the Tribunal for resolution of the requests as a matter in dispute.
4. In this case, the Respondent responded to the Request on December 6, 2023 and the Applicant applied to the Tribunal on February 13, 2023, which exceeds 60 days from the date of the Response.
5. The Applicant alleges that the reason for the delay was due to a technical issue with the CAO's website. The Applicant mentions that they attempted to contact the CAO regarding the issue on December 8, 2023 but did not

receive a response.

6. The Applicant also states that they assumed the 60 day timeline to be business days and not calendar days.
 7. The Applicant has stated a clear intent to pursue the request, but the provisions set out in O. Reg 48/01 establish that a request is deemed to be abandoned if an application is not made within the prescribed time.
 8. The CAT does not have discretion to extend these timelines.
- [2] The Applicant can make a new request for records, and can file a new Application within the timelines.
- [3] I find that the CAT has no power to decide the issue because the Request is deemed abandoned. Accordingly, this case is dismissed Under Rule 19.1 of the CAT's Rules of Practice

ORDER

- [4] The Tribunal orders the Application dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: March 7, 2024