

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: March 12, 2024

CASE: 2023-00647R

Citation: Oommen v. Peel Condominium Corporation No. 485, 2024 ONCAT 36

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

Member: Ian Darling, Chair

The Applicant,
Sajan Oommen
Self-Represented

The Respondent,
Peel Condominium Corporation No. 485
Represented by Jasmeen Kaur Sangha, Counsel

Submission Dates: February 22, 2024 to March 5, 2024

MOTION ORDER

- [1] The Applicant requested that this case be reopened after it closed in Stage 1 - Negotiation. The Case closed under Rule 30.1 (d), which establishes that the CAT will end Stage 1 and close the Case if there has been no activity on the Case by any Party in the CAT-ODR system for more than 30 days.
- [2] In deciding whether to reopen the case, I am guided by the factors in *Frey v. MacDonald* [1989] O.J. No. 236 (C.A.). In *Frey*, the Court set out four considerations in assessing a request for an extension of time:
1. The existence of a bona fide intention to appeal;
 2. The length of the delay;
 3. Prejudice to the other party; and,
 4. The merits of the appeal.

When considering these factors, the Court has also stated that "the justice of the case" is the overriding consideration.

- [3] The Application was approved by the CAT and Negotiation commenced on November 21, 2023. The parties exchanged messages and documents between November 23 and December 20, 2024. The Applicant posted a final message on January 10 and the case closed on February 10. The Applicant submitted a motion to reopen the case on February 22, 2024.
- [4] The Applicant stated that they posted a message in the Negotiation message centre stating that they wanted to move to mediation. Rule 30.2 states that “the Applicant(s) may move from Stage 1 to Stage 2 by paying the Stage 2 Fee.” The case history shows that the Applicant did not pay the fee to move to stage 2. The CAT-ODR platform sent 4 automated messages warning that the case would be closed if it remained inactive. The Applicant acknowledged that the notifications were received.
- [5] Although the records issue is unresolved, I have decided that it would not be appropriate to reopen the case. The CAT Rules of Practice are clear that cases will be closed if there is no activity in the case. The Applicant acknowledged receipt of the inactivity warning messages, and did not follow the steps to move the case into Stage 2. In weighing the Frey factors, I find that the Applicant posting a message in the message centre does not constitute a genuine intention to move the case forward. Further, I find the consideration of the overall justice of the case determinative - it would undermine the principle of finality if the case were reopened without a valid reason.

ORDER

- [6] The motion is dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: March 12, 2024