

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 2, 2024

CASE: 2023-00705N

Citation: Toronto Standard Condominium Corporation No. 2025 v. Hassan, 2024 ONCAT 52

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

Member: Brian Cook, Member

The Applicant,

Toronto Standard Condominium Corporation No. 2025
Represented by Christy Plaitis, Agent

The Respondent,

Fazal Hassan
Not participating

The Intervenor,

Milan Baic
Not participating

Hearing: Written Online Hearing – March 19, 2024 to March 26, 2024

REASONS FOR DECISION

A. INTRODUCTION

[1] Fazal Hassan is a tenant in a unit owned by Milan Baic in Toronto Standard Condominium Corporation No. 2025 (TSCC 2025). In this application, TSCC 2025 alleges that Mr. Hassan has created unreasonable noise disturbing other residents. TSCC 2025 seeks an order directing Mr. Hassan to stop making unreasonable noise and directing Mr. Baic to ensure that his tenant follows the rules of the condominium, including those prohibiting unreasonable noise.

[2] When TSCC 2025 filed the application, it served notice of the application on Mr. Hassan, inviting him to join the case. A second notice was sent on February 7, 2024. It noted that if Mr. Hassan did not join the case, the Applicant could move the case to the adjudication stage and that a CAT Member may make an order in his absence and without his input or participation. This same information was

provided in the third and final notice. Mr. Hassan has not joined the case or otherwise communicated with the Tribunal. I find that Mr. Hassan had adequate notice of this proceeding and elected to not participate.

[3] Mr. Baic did join the case but has not otherwise participated. Once a party joins a case, they receive copies of all communications, including notice of the hearing. I find that Mr. Baic has had adequate notice of this proceeding and has elected to not participate.

[4] The Applicant is represented by Christy Plaitis, the condominium manager.

B. BACKGROUND

[5] The history of this matter is set out in a submission from Ms. Plaitis:

- January 28, 2022: Initial noise complaint notification sent to Milan Baic, [the unit]landlord/owner.
- December 31, 2022 - January 1, 2023: Loud party reported, leading to a warning letter to Mr. Hassan and Mr. Baic.
- September 23-24, 2023: Loud parties persisted from 5 AM until 11 AM on both days.
- October 5, 2023: Compliance letter issued to Mr. Hassan and Mr. Baic.
- October 14, 2023: Another loud party reported from 6:30 AM until 11:30 AM.
- October 18, 2023: Phone call held with Mr. Baic discussing the seriousness of noise complaints and next steps.
- October 20, 2023: Compliance letter issued.
- October 26, 2023: Mr. Baic served an N5 (Notice to Terminate the Lease) to Mr. Hassan.
- October 27, 2023: Mr. Hassan claimed resolution with [the] neighbor, which was later found to be untrue.
- November 25, 2023: Noise disturbances reported at 2 AM and 11:53 PM.
- December 15, 2023: Initiation of the CAT application directed by TSCC 2025's Board of Directors

[6] In this application, Ms. Plaitis indicated that the corporation was seeking help, up to and including an order terminating the tenancy.

[7] After the case was assigned to me, I sent a direction to the parties. I noted that the Tribunal does not have the power to terminate a tenancy or order eviction. I set out the relevant parts of section 1.44 of the *Condominium Act, 1998* (the "Act") which sets out the things that the Tribunal can order at the end of a proceeding and asked Ms. Plaitis to identify the orders TSCC 2025 is seeking. She advised as follows:

It is evident that Mr. Hassan has disregarded his neighbors' right to quiet enjoyment, despite repeated warnings and interventions. Therefore, TSCC 2025 seeks the Tribunal's support to curb Mr. Hassan's unreasonable noise behavior. Should Mr. Hassan fail to comply, TSCC 2025 requests the Tribunal to impose appropriate remedies, including but not limited to lease termination.

[8] Ms. Plaitis also provided communications with an owner of an adjacent unit, indicating that tenants in that unit have complained of noise, and previous tenants moved out because of the noise.

[9] I asked Mr. Baic to clarify why the Landlord and Tenant Board N5 notice was sent to Mr. Hassan in October 2023 but indicated that the unit should be vacated by February 1, 2024. I also asked if a second notice had been sent and the status of any application at the Landlord and Tenant Board. Mr. Baic did not respond.

C. ANALYSIS

[10] Section 117(2)(a) of the Act reads as follows:

(2) No person shall carry on an activity or permit an activity to be carried on in a unit, the common elements or the assets, if any, of the corporation if the activity results in the creation of or continuation of,

(a) any unreasonable noise that is a nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.

[11] The TSCC 2025 rules also prohibit unreasonable noise and holds owners liable for the costs of remedying unreasonable noise.

[12] Based on the uncontested evidence provided by TSCC 2025, I find that on at least five occasions between January 2022 and October 2023, Mr. Hassan has allowed or created unreasonable noise that has disturbed other residents, in contravention of section 117(2)(a) of the Act and TSCC 2025's rules.

[13] I order Mr. Hassan to stop making or allowing unreasonable noise. I order Mr. Baic to ensure that Mr. Hassan is aware of his obligations under the Act and TSCC

2025's rules, and, in particular, that he stop making or allowing unreasonable noise.

[14] As noted, the Tribunal has no power to order the end of a tenancy. The Landlord and Tenant Board has that power. Mr. Baic is directed to keep TSCC 2025 advised of the status of any proceeding at the Landlord and Tenant Board.

[15] TSCC 2025 did not seek a cost award. However, Rule 48.1 of the Tribunal's Rules of Practice provides that if a case proceeds to a decision, the unsuccessful Party will be required to pay the successful Party's CAT fees unless the CAT Member decides otherwise. TSCC 2025 has paid \$150 in CAT fees. Mr. Baic is ordered to pay \$150 to TSCC 2025 within 14 days of the date of this decision.

D. ORDER

[16] The Tribunal Orders that:

1. Mr. Hassan must stop making or allowing unreasonable noise in the unit or common areas of TSCC 2025.
2. Mr. Baic shall ensure that Mr. Hassan stops making or allowing unreasonable noise, and in particular that he stop holding and allowing loud parties.
3. Mr. Baic shall keep TSCC 2025 advised of the status of any proceeding at the Landlord and Tenant Board respecting Mr. Hassan's tenancy.
4. Within 14 days of the date of this decision, Mr. Baic shall pay to TSCC 2025 \$150, representing the Tribunal fees paid by TSCC 2025.

Brian Cook
Member, Condominium Authority Tribunal

Released on: April 2, 2024