

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: May 29, 2024

CASE: 2024-00198R

Citation: Fisher v. Niagara South Condominium Corporation No. 55, 2024 ONCAT 72

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

Member: Marc Bhalla, Member

The Applicant,

Ken Fisher

Self-Represented

The Respondent,

Niagara South Condominium Corporation No. 55

Represented by Marlene Snook, Agent

Submission Dates: May 13, 2024 to May 20, 2024

DISMISSAL ORDER

- [1] The Applicant filed a records case with the Condominium Authority Tribunal (CAT). The case cited issues about the types of records the condominium is keeping and accessing or getting copies of records.
- [2] At the outset of Stage 2 mediation, I expressed concern that the case fell outside of CAT jurisdiction. While the mediation session gave the parties the chance to work together to address their issues, they could not resolve the case through mediation. The Applicant sought to move the case to a Stage 3 hearing.
- [3] I could not allow the case to move ahead to a Stage 3 hearing with my concern that the case fell outside CAT jurisdiction. I issued a Notice of Intent to Dismiss the matter and offered the parties a chance to make submissions.
- [4] Submissions were received from both parties. They were considered in making this order. Confidential communications and offers made in mediation were not taken into account.
- [5] The Applicant's submissions focused on two claims:
 1. That the Respondent failed to comply with the Declaration. Specifically, Section 15 of the condominium Declaration which sets out owner voting thresholds for the modification of common elements and assets of the condominium corporation; and

2. That the Respondent failed to provide open and clear communication. Primarily, the Applicant claims a reluctance on the part of the Respondent to disclose information and cites a lack of disclosure of “essential information regarding changes to the common elements”.
- [6] The Respondent submissions were not relevant to my consideration of jurisdiction.
- [7] The Applicant’s concerns surround their interpretation that a vote of owners which did not occur was required to construct a fence and to paint garage doors. These are not issues with the types of records the condominium is keeping, or with accessing or getting copies of records.
- [8] Under Rule 34.3 of the CAT Rules of Practice, the CAT can close a case in Stage 2 - Mediation if it determines it lacks the legal power to decide the case. The issues of this case do not relate to the jurisdiction under which the case was filed. Ontario Regulation 179/17 gives CAT jurisdiction to decide records cases related to Section 55(1) of the *Condominium Act, 1998* and Section 13.1(1) of Ontario Regulation 48/01. This jurisdiction is focused on the types of records a condominium corporation keeps and owners’ access to them. The Applicant’s focus in this case is beyond this jurisdiction. The Applicant’s issues surround their belief that a vote of owners was needed and related communications. This is not a matter within the CAT’s records jurisdiction. The CAT lacks the legal power to decide this case.

ORDER

- [9] The Tribunal orders the case dismissed.

Marc Bhalla
Member, Condominium Authority Tribunal

Released on: May 29, 2024