

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 4, 2024

CASE: 2024-00028N

Citation: Wentworth Standard Condominium Corporation No. 382 v. Marrasso, 2024 ONCAT 75

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

Member: Nicole Aylwin, Member

The Applicant,

Wentworth Standard Condominium Corporation No. 382

Represented by Erik Savas, Counsel

The Respondent,

Mark Marrasso

Represented by Robert Fedak, Agent

The Intervenors,

Bernice Addezi

Represented by Robert Fedak, Agent

Sonya Addezi

Represented by Robert Fedak, Agent

Submission Dates: May 22, 2024 to May 30, 2024

MOTION ORDER

[1] The Applicant, Wentworth Standard Condominium Corporation No. 382, has requested that the Tribunal issue an order removing Robert Fedak as the representative for the Respondent, Mark Marrasso, the owner of the unit, and the Intervenors, Bernice Addezi and Sonya Addezi, who are tenants in the unit. It asserts that Mr. Fedak does not qualify as a representative under the Tribunal's Rules of Practice; specifically, Rule 9.1, which states:

A Party may be represented by:

(a) a lawyer or paralegal licensed by the Law Society of Ontario; or

(b) a person who is exempt from the Law Society's licensing requirements.

This includes a friend or family member who is helping without receiving any fee, or a person who is a licensed condominium manager.

- [2] Mr. Fedak is not a lawyer or paralegal, and thus does not qualify to represent a party based on Rule 9.1 (a). However, he can be the representative for the parties, provided he meets the criteria set out in 9.1 (b).
- [3] The Applicant takes the position that Mr. Fedak does not meet these criteria. Counsel for the Applicant argues that the only connection between Mr. Fedak and the parties is that Mr. Fedak is Bernice Addezi's employer, which does not make him a 'friend' or 'neighbour' to the Respondent or Intervenors.
- [4] The Respondent and Intervenors take the position that Mr. Fedak is assisting them by representing them as a friend, making him exempt from the licensing requirements based on Part V, s. 4 of the Law Society's By-law #4, which allows a friend of a neighbour to represent someone, so long as they are an individual:
- i. whose profession or occupation is not and does not include the provision of legal services or the practice of law,
 - ii. who provides the legal services only for and on behalf of a friend or a neighbour,
 - iii. who provides the legal services in respect of not more than three matters per year, and
 - iv. who does not expect and does not receive any compensation, including a fee, gain or reward, direct or indirect, for the provision of the legal services.
- [5] I asked for submissions from all parties on the motion, and requested that the Respondent, Intervenors and Mr. Fedak himself respond to some specific questions about the nature of the relationship between the parties, to help me to determine if Mr. Fedak qualified to act as a representative in the capacity of a "friend".
- [6] It is incumbent on the Tribunal to ensure the integrity of its process which includes ensuring that a party's representative may act in that capacity pursuant to the Tribunal's Rules of Practice. At the same time, the Tribunal recognizes that the selection of a representative is a highly personal decision for a party and is likely based on a number of factors, including competence, skill, cost, personal compatibility, among others. The removal of a chosen representative should not be done lightly and without an appropriate legal basis for doing so.
- [7] It is within this context that I have reviewed all the submissions provided and

considered the Tribunal's Rules and Law Society's By-law #4. My reasons focus on question of whether Mr. Fedak, is an "individual who is providing legal services only for and on behalf of a friend or neighbour", as the majority of submissions by the parties and the concerns raised by Applicant counsel primarily focused on this criterion. However, I have considered all of the criteria and the submissions and information before me.

- [8] Based on the information before me, I am satisfied that Mr. Fedak is acting in the capacity as a friend to the Intervenors. While the Applicant raised concerns about the fact that Mr. Fedak was the employer of one of the Intervenors, Bernice Addezi, the mere fact that Mr. Fedak is Ms. Addezi's employer does mean he cannot also be a friend to the Addezi's. Both Bernice Addezi and Soyna Addezi, attested to the fact they have known Mr. Fedak for at least two years (prior to this Tribunal proceeding), consider Mr. Fedak a trusted friend, that he does not provide legal advice to them (or to the best of their knowledge to anyone) on any repeated or ongoing basis, and that he has not asked for or received no compensation for assisting them. Thus, I find he can continue as the representative in this case as he qualifies as a representative under the Tribunal's Rule 9.1 (b).
- [9] However, I am not satisfied that Mr. Fedak meets the criteria to act as a representative for the Respondent, Mr. Marrazzo, under Tribunal Rule 9.1 (b). Neither Mr. Marrazzo nor Mr. Fedak has provided any compelling evidence that the two have any relationship at all beyond the circumstances of this case. When given the opportunity to elaborate on the nature of the relationship between them, both declined to tell me how long they had known each other, if they knew each other prior to the outset of this case or in what capacity. There is no evidence that Mr. Fedak is either a friend or neighbour as contemplated by By-law #4, Part V, s.4 (ii), meaning he does not quality to represent Mr. Marrazzo under the Tribunal's Rule 9.1 (b). Thus, Mr. Fedak will not be allowed to continue to represent the Respondent in this matter. The Respondent will have seven days from the date of this order to either appoint a new representative or indicate that he will represent himself.

ORDER

[10] The Tribunal Orders that:

1. Mr. Fedak may continue to represent the Intervenors in this matter.
2. Mr. Fedak is disqualified from acting as representative for the Respondent, Mr. Marrazzo, in this matter.

3. The Respondent, Mr. Marrazzo, must advise the Tribunal within 7 days of the date of this order of the name of his new representative or his intention to represent himself.

Nicole Aylwin
Member, Condominium Authority Tribunal

Released on: June 4, 2024