

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** July 11, 2024

**CASE:** 2024-00053N

**Citation:** Tiwana v. Peel Condominium Corporation No. 485, 2024 ONCAT 102

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

**Member:** Dawn Wickett, Member

**The Applicant,**

Nirpal Tiwana

Represented by Ranvir Tiwana, Agent

**The Respondent,**

Peel Condominium Corporation No. 485

Represented by Larry Plener, Counsel

**The Intervenor,**

Danish Ahmed

Self-Represented

**Submission Dates:** June 20, 2024 to June 27, 2024

### **MOTION ORDER**

- [1] The Applicant is the unit owner in the Respondent, Peel Condominium Corporation No. 485 (“PCC 485”). The Intervenor was the tenant occupying the Applicant’s unit. The tenant moved out of the unit in April 2024.
- [2] The Applicant filed this application disputing PCC 485’s claim for indemnification of \$800 for the cost incurred for issuing a compliance letter to the tenant on January 12, 2024. PCC 485 also sent a copy of the letter to the Applicant.
- [3] The compliance letter detailed concerns about the tenant’s alleged abusive behaviour directed at the property management staff, PCC 485’s board of directors, security staff and other residents. In the letter, PCC 485 advised the tenant that his alleged behaviour constituted harassment and was strictly prohibited under section 32 of the *Occupational Health and Safety Act, 1990* (“OHSA”) section 117 (1) and (2) of the *Condominium Act, 1998* (the “Act”), as well as various portions of its governing documents (Rules B1., B5., B6., B7., B9. and

C1.) which prohibit conduct that constitutes workplace harassment, violence or discrimination. The letter also advised the Applicant that he is required to indemnify PCC 485 \$800 for the cost it incurred in seeking compliance with its governing documents pursuant to section 12 of its declaration.

- [4] At the onset of the hearing, I explained to the parties that the Tribunal may not have jurisdiction to hear and decide this application. I invited all three parties to make submissions on the issue of jurisdiction. The Applicant and PCC 485 provided submissions. The only submission made by the tenant was his request that I consider ordering PCC 485 to reimburse him the \$750 deposit he paid for booking the elevator while moving out of the unit.
- [5] The Applicant submitted that his application is within the Tribunal's jurisdiction because it was vetted before any stage of the Tribunal proceedings commenced and was accepted by the Condominium Authority of Ontario ("CAO"). He further submitted that the Tribunal helps resolve disputes related to "condo records, noise, odours, light, vibration, smoke, vapour, pets, animals, vehicles, parking, storage, other types of nuisances, and compliance with CAT settlement agreements."
- [6] PCC 485 submitted that the issues in dispute fall outside the scope of the Tribunal's jurisdiction because the indemnification the Applicant seeks stems from PCC 485 enforcing its policy prohibiting workplace harassment pursuant to section 32 of the OHSA and section 117 (1) of the Act. PCC 485 further submitted that the letter was sent to direct the tenant to cease harassing, interfering and/or engaging in abusive conduct within the condominium property. The following is an excerpt from the letter sent to the Applicant and the tenant:
- ...the aforementioned conduct constitutes workplace harassment, which is strictly prohibited by Section 32 of the Occupational Health and Safety Act, as well as hinders the ability of the Corporation's Board, Property Manager, and other agents to carry out their respective duties regarding the administration and management of the affairs of the Corporation.
- [7] In support of its position that this application falls outside of the Tribunal's jurisdiction, PCC 485 relied on Ontario Regulation 179/17 ("O. Reg 179/19") which sets out the scope of the Tribunal's jurisdiction and prohibits the Tribunal from hearing disputes that fall under section 117(1) of the Act.
- [8] In reviewing the application and the submissions of the parties, I have determined that the Tribunal lacks the authority to make determinations in this case as it falls beyond the scope to its jurisdiction.
- [9] I find that the substance of this application is subject to the provisions of section

117 (1) of the Act.

[10] O. Reg 179/17 sets out the scope of the Tribunal's jurisdiction and does not include issues under section 117 (1) of the Act. Section 1 (3) of the O. Reg 179/17 states:

Clauses (1) (c.1) and (d) do not apply to a dispute that is also with respect to subsection 117 (1) of the Act, an agreement described in clause 98 (1) (b) of the Act or an agreement described in subsection 24.6 (3) of Ontario Regulation 48/01 (General) made under the Act.

[11] In making my decision, I considered the contents of the January 12, 2024, letter sent to the Applicant and the tenant which clearly identified PCC 485's concerns that the tenant's alleged abusive and harassing behaviour was prohibited under section 32 of the OHSA. Issues that are identified as health and safety fall under section 117 (1) of the Act. Further, the Applicant did not make submissions on this issue, and relied on the application being vetted and accepted by the CAT as confirmation that the issues fall within the Tribunal's jurisdiction. The Applicant's position that because an application is accepted by the CAT means the Tribunal has jurisdiction to hear it, is incorrect. An application may be accepted by Tribunal staff based on the problem description provided by an applicant. However, it may be unclear whether the Tribunal does in fact have jurisdiction to hear the matter - that determination is an adjudicative decision that is made by a Tribunal member, not staff, after receiving submissions from the parties. This is the process that occurred in this case.

[12] As I have found that the Tribunal does not have the jurisdiction to hear this matter, the application is dismissed.

### **ORDER**

[13] The application is dismissed.

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Dawn Wickett  
Member, Condominium Authority Tribunal

Released on: July 11, 2024