

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: September 20, 2024

CASE: 2023-00510N

Citation: Metropolitan Toronto Condominium Corporation No. 1031 v. Lengyel, 2024 ONCAT 145

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

Member: Ian Darling, Chair

The Applicant,

Metropolitan Toronto Condominium Corporation No. 1031
Represented by Jessica Hoffman, Counsel

The Respondent,

Evelyn Lengyel
Self-Represented

The Intervenors,

Metropolitan Toronto Condominium Corporation No. 1056
Represented by Rabab Meen, Counsel

Metropolitan Toronto Condominium Corporation No. 965
Represented by Ava Naraghi, Counsel

Submission Dates: August 12, 2024 to August 21, 2024

MOTION ORDER

[1] Evelyn Lengyel (the "Respondent") submitted a motion asking for the case to be deferred as an accommodation following an Emergency Surgery in June 2024. This Motion Order explains why the Tribunal is denying the adjournment request.

Background

[2] The Tribunal issued a Motion Order¹ on March 25, 2024 that provided instructions on how the case would proceed. The Respondent did not join the case on the

¹ *Metropolitan Toronto Condominium Corporation No. 1031 v. Lengyel, 2024 ONCAT 47*

CAT-ODR platform. The case proceeded to Stage 3 as a default proceeding. On June 26, 2024, the Tribunal sent notice to the parties that the hearing was to commence on July 9, 2024. On July 4, 2024, the Respondent sent an email to the CAT with new medical documentation, and another request that the hearing be delayed indefinitely. The medical documentation was dated June 26, 2024. The documentation included two forms. The first was a medical test requisition form. The Respondent also provided an image of what appeared to be of a carbonless copy paper of an “Emergency Record” form. The image could not be read – the original carbonless copy paper was wrinkled. The image quality was not sufficient to a reader to understand the handwriting, nor could it be magnified to allow it to be read. The Respondent also attached a request for a further adjournment to the case to allow for surgical recovery related to the emergency room visit.

- [3] In response to the request, the Tribunal confirmed receipt of the material, and stated that the new medical evidence substantiated that the Respondent visited an Emergency Department on the afternoon of June 26, but it did not provide any information about the Respondent’s ability to participate in the case. In light of this, the CAT provided notice on June 26, 2024 that the Stage 3 Adjudication would commence on July 9, 2024.
- [4] On July 23, 2024, the Respondent submitted an additional request to grant an open-ended adjournment of the hearing until such a time as she could participate in the hearing.
- [5] In correspondence to the Tribunal, the Respondent also asserted that she had not consented to be a party to the case. I note that the Respondent has raised this on several occasions, however, consent is not required to be named a respondent in a case.
- [6] The Tribunal has previously considered if adjournments should be granted in this case.² Since the request is for a new adjournment, and the Applicant has not had a chance to respond to the motion, the Tribunal requested submissions from the Respondent about the request to adjourn the case.

Should the case be adjourned indefinitely?

- [7] The Respondent requested the adjournment because she was medically unable to participate in the process. The Applicant objected to the adjournment. They

² *Metropolitan Toronto Condominium Corporation No. 1031 v. Lengyel*, 2024 ONCAT 47
Metropolitan Toronto Condominium Corporation No. 1031 v. Lengyel, 2024 ONCAT 44
Metropolitan Toronto Condominium Corporation No. 1031 v. Lengyel, 2024 ONCAT 10

asserted that the new request was a continuation of prior requests to adjourn the case. They further asserted that it was unfair to the Applicant to continue to delay the process.

[8] In April 2024, the CAT issued a Practice Direction related to Scheduling and Adjournments. The direction states that the CAT will review the specific reasons for the request and may consider any of the following factors:

- Whether the adjournment is necessary to ensure a fair hearing;
- Any earlier requests to adjourn or reschedule events;
- The conditions attached to any previous adjournment;
- Whether the request was made at the earliest opportunity;
- Whether the party made all reasonable efforts to avoid the need for the adjournment;
- Whether the parties were given the opportunity to canvass their ability to participate at certain times;
- Whether anyone would be unduly prejudiced if the request were allowed or denied;
- Whether the adjournment has been consented to by the other parties;
- If the request is made because a party wishes to obtain legal representation, when the requester began attempts to retain legal representation and whether the legal representative was made aware of and is available to participate in the proceeding on upcoming scheduled events;
- Whether the issues are simple or complex;
- Any urgency based on the circumstances of the case;
- Any serious personal emergency or compassionate factors;
- The length of the proposed adjournment and whether it would unduly delay the proceedings; the CAT will not allow an adjournment for an indefinite time.

[9] The Practice Direction provides further guidance with respect to medical documentation. This should include at a minimum:

- A description of the diagnosis, the effect of the patient's condition on the ability to participate in the CAT's process;
- An indication that the doctor is aware of the nature of the dispute and that the CAT process is an online one and does not require in-person attendance and is accessible 24/7; and

- A statement as to when, in the doctor's opinion, the patient will be well enough to participate as required.

[10] The Respondent has requested an open-ended adjournment and has not provided medical documentation that meets the minimum standard required by the Tribunal.

[11] The Tribunal appreciates that the Respondent is experiencing stress related to this application. However, as the Applicant points out, the Respondent is capable of maintaining multiple legal proceedings where she is the Applicant – including seeking leave to the Supreme Court of Canada³.

[12] I am satisfied that the Applicant has demonstrated that the Ms. Lengyel can maintain formal complaints and tribunal cases when she is the Applicant. The current request is unduly delaying proceedings. The Request to adjourn the case is denied.

[13] The Applicant asked for a cost award related to the work that they were required to undertake to respond to the motion. I decline to award costs now but may consider the impact of this motion as part of the overall cost consideration at the end of the hearing.

[14] I also take time to reiterate aspects of previous CAT motion orders in this case. Prior motion decisions have confirmed that the CAT accepts that Ms. Lengyel has a disability that affects her ability to participate in a hearing. The CAT accepts that the documentation substantiates the disability. However, the existence of a disability does not remove her legal responsibilities.

[15] The CAT can make the process easier. It can accommodate Ms. Lengyel and help

³ A review of CanLII lists the following decisions involving the Respondent released in 2023 and to date in 2024.

Gabriella Lengyel v. Ministry of the Attorney General, Office of the Public Guardian and Trustee, 2024 CanLII 80692 (SCC)

Gabriella Lengyel v. TD Home and Auto Insurance, et al., 2024 CanLII 43119 (SCC)

Gabriella Lengyel v. Licence Appeal Tribunal, et al., 2024 CanLII 43117 (SCC)

Lengyel v. Public Guardian and Trustee, 2024 ONCA 130

Lengyel v. Public Guardian and Trustee, 2024 HRTO 212

Lengyel v. Samworth, 2024 HRTO 109

Lengyel v. Public Guardian Trustee, 2023 HRTO 1791

Lengyel v. Tribunals Ontario Environment and Land Division, 2023 HRTO 1679

Lengyel v. CBI Health Group, 2023 HRTO 1517

Lengyel v. CBI Health Group, 2023 HRTO 1243

Gabriella Lengyel v. Joan Tucker, M.D., 2023 CanLII 36965 (SCC)

Lengyel v. TD Home and Auto Insurance, 2023 ONSC 2093

Lengyel v. Ontario Assessment Review Board, 2023 ONSC 1959

Lengyel v. The Licence Appeal Tribunal et al., 2023 ONSC 1623

her participate in a meaningful way. The CAT process is different from a typical tribunal. First, the parties have a chance to negotiate a solution, then can have a mediator assist with resolving the issues. These are informal ways to resolve the issues without a formal hearing. The negotiation and mediation stages can be conducted fully in writing.

[16] The CAT adjudication does not require the parties to attend in person. Stage 3 – Tribunal Decision is a written hearing (similar to exchanging messages via email). Ms. Lengyel has demonstrated through the many email messages sent in response to this motion, that she is capable of responding to written messages.

[17] Tribunal members can create a hearing schedule that sets deadlines that ensure parties can participate. If the Respondent needs extra time to fully participate, the Tribunal members can grant it as needed.

Confidentiality Order

[18] Ms. Lengyel's submissions contain personal and medical information about the Respondent. The Respondent provided the same information in submissions related to this motion, and in emails to the tribunal after the submission period ended.

[19] The sensitive and personal information is throughout the submissions, I order that the prior confidentiality order extends to this motion.

ORDER

[20] The Tribunal orders that the submissions in response to the motion are confidential and are not to be released to the public.

[21] The Tribunal orders that the case will resume in the CAT-ODR platform on September 30, 2024.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: September 20, 2024