

Corrected Order

This Order includes a correction in the citation.

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: January 13, 2025

CASE: 2024-00314N

Citation: Jalbout v. Carleton Condominium Corporation No. 272, 2025 ONCAT 8

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

Member: Ian Darling, Chair

The Applicant,

Jennifer Jalbout

Self-Represented

The Respondent,

Carleton Condominium Corporation No. 272

Represented by Peter Fazekas, Agent

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

MOTION ORDER

- [1] Jennifer Jalbout applied to the Condominium Authority Tribunal (CAT). The CAT issued a request to clarify the dispute and a notice of intent to dismiss the case. At the conclusion of the motion process, I have decided not to dismiss the Application. I allow the case to proceed, with stipulations.
- [2] The Notice of Intent to Dismiss ("the Notice"), under Rule 19.1 of the CAT's Rules of Practice, listed the following reasons:
1. The original application was submitted to the CAT on May 20, 2024. The Applicant made several revisions to the application between May 20 and June 14, 2024. On June 18, 2024, the CAT requested additional information. The Applicant did not update the application until November 15, 2024. The CAT requested additional information on November 19, 2024. The Applicant responded on November 29, 2024 stating that the changes had been completed.

2. The Applicant has appeared before the Tribunal in a case where lights causing a nuisance was an issue that the tribunal decided in *Jalbout v. Brown et al.*, 2023 ONCAT 147.
3. The current application is about light coming from a neighbouring backyard. It is not clear if this application is about a different source of light, or if it is related to the dispute that the Tribunal has already decided.
4. In its decision in that case, the Tribunal found that “the Respondents and Ms. Jalbout have each created a nuisance as a result of the lighting in their respective backyards, contrary to subsection 117 (2) of the Act.”
5. The Tribunal ordered, “Ms. Jalbout and Mr. Dubeau, as the respective owners, must make modifications or adjustments to the backyard lighting of their respective units so as to limit the scope of the lighting or glare to their exclusive use backyard area and to minimize any spillover that might occur through the fence planks. Any expense incurred in that regard must be borne by the party which is responsible for lighting in each backyard area.”
6. If the light issue raised by the Applicant in this application has already been adjudicated, then the Tribunal has no power to decide the case.

[3] In response to the Notice, the Applicant clarified that the light in question is owned by the corporation and is distinct from the prior case. The Respondent’s submissions justified why the light was required, but did not address any of the questions in the Notice. The Respondent will have an opportunity to provide these reasons if the parties are unable to resolve the case in mediation.

[4] Based on the submissions, I am prepared to accept that the light is different from the prior case. I am also satisfied that the corporation “owns” the light in question. On this basis, I am prepared to allow the case to proceed. I do note the parties have a history of prior CAT cases and will order that the issues in this case are limited to those outlined in the problem description as of when the case is accepted.

ORDER

[5] The case will proceed. Once approved, the Applicant must follow the steps to provide notice of the dispute. If the Respondent joins the case in response to the Notice of Case, it will proceed to Stage 1 – Negotiation. If the Respondent does not join the case, it will proceed to Stage 3 – Tribunal Decision as a default proceeding.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: January 13, 2025