

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 12, 2025

CASE: 2024-00690R

Citation: Chown v. Frontenac Condominium Corporation No. 19, 2025 ONCAT 25

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

Member: Mary Ann Spencer, Member

The Applicant,

Adaire Chown

Self-Represented

The Respondent,

Frontenac Condominium Corporation No. 19

Represented by Vincent Bennett, Agent

Hearing: Written Online Hearing – January 21, 2025 to February 10, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant, Adaire Chown, is the owner of a unit of the Respondent, Frontenac Condominium Corporation No. 19 (the “corporation”). On October 4, 2024, Ms. Chown submitted a Request for Records to the corporation in which she requested electronic copies of the Record of Owners and Mortgagees, approved financial statements dating from April 2024, minutes of board meetings dating from May 2024 and legal invoices dating from October 1, 2023. The Request was submitted by e-mail to the corporation’s condominium manager and copied to members of its board of directors. The corporation provided the requested legal invoices but failed to provide the other records. Therefore, Ms. Chown submitted her application to the Tribunal.
- [2] The corporation, represented by its condominium manager Vincent Bennett, joined the Tribunal proceeding. However, the Summary and Order prepared by the mediator at the end of Stage 2 – Mediation indicates that he did not participate in the mediation. Therefore, the mediator approved Ms. Chown’s request that the

matter be moved to Stage 3 – Tribunal Decision. When Mr. Bennett did not respond to my initial message in the Stage 3 – Tribunal Decision proceeding, I asked Tribunal staff to contact him. On January 24, 2025, he posted a message in which he advised that he had posted the outstanding records to the CAT- ODR system on January 12, 2025. He did not participate further in the proceeding.

- [3] Ms. Chown confirmed that she had received the outstanding core records and that the first issue which the mediator identified in the Stage 2 Summary and Order, which is whether she had received all of the records to which she was entitled, had been resolved. She is requesting that the corporation be assessed a penalty for refusing to provide records without reasonable excuse and that she be reimbursed the \$200 she paid in Tribunal fees.
- [4] For the reasons set out below, I find that the corporation's delay in providing the requested core records amounts to a refusal to provide them without reasonable excuse and I assess a penalty of \$250. I also order the corporation to reimburse Ms. Chown's Tribunal fees of \$200.

B. ISSUES & ANALYSIS

- [5] The issues to be decided in this matter are:
1. Has the Respondent refused to provide records without reasonable excuse and, if so, should the Tribunal assess a penalty?
 2. Should the Tribunal award costs in this matter?
- [6] My decision on the issues is based on Ms. Chown's submissions. After he posted his January 24, 2025, message, Mr. Bennett did not participate further in the Stage 3 – Tribunal Decision proceeding, notwithstanding that I advised him several times that I would decide this matter based solely on the Applicant's evidence if the corporation failed to participate.

Issue 1: Has the Respondent refused to provide records without reasonable excuse and, if so, should the Tribunal assess a penalty?

- [7] Section 1.44 (1) 6 of the *Condominium Act, 1998* (the "Act") states that the Tribunal may order a corporation to pay a penalty if it finds that the corporation has, without reasonable excuse, refused to permit a person to examine or obtain copies of records.
- [8] Section 13.3 (6) of Ontario Regulation 48/01 ("O. Reg 48/01") requires a corporation to respond to a Request for Records within 30 days of its receipt. In

this case, Ms. Chown did not receive the core records she requested in her October 4, 2024, Request for Records until they were provided on January 12, 2025, after the mediation in this matter had been completed but just before the ability to post documents to the CAT-ODR system had ended. Because Mr. Bennett did not participate in the Stage 3 – Tribunal Decision proceeding beyond posting his one message, there is no evidence before me to indicate the reason for the delay in the corporation's response to this part of Ms. Chown's request.

- [9] Given the fact that the corporation has provided Ms. Chown with all of the records she requested, there was no outright refusal to provide records in this case. However, in a number of past decisions, the Tribunal has found that a delay in the provision of records comprised an effective refusal to provide them without reasonable excuse. In *Chai v. Toronto Standard Condominium Corporation No. 2431*, 2019 ONCAT 45 (CanLII), the Tribunal wrote at paragraph 79:

One of the purposes of assessing a penalty is to deter future similar action. O. Reg. 48/01 sets out specific time frames for the provision of records in response to Requests for Records. It should not be without consequence if a corporation fails to meet these time frames without the provision of valid reasons.

- [10] Ms. Chown did not receive the requested core records until some three months after she submitted her Request for Records. In the absence of the provision of any reasons by the corporation, I find this delay constitutes a refusal, albeit a temporary one, to permit the Applicant to examine or obtain copies of records without reasonable excuse.

- [11] Ms. Chown requested a penalty of \$150 be assessed. I find this amount would be insufficient deterrent to future similar action. However, I acknowledge that the corporation provided the non-core records within the required time frame. In these circumstances, I assess a penalty of \$250.

Issue 2: Should the Tribunal award costs in this matter?

- [12] Rule 48.1 of the Tribunal's Rules of Practice states:

If a Case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final Decision, the unsuccessful Party will be required to pay the successful Party's CAT fees unless the CAT member decides otherwise.

Ms. Chown was successful in this matter and therefore I am ordering the corporation to pay her \$200 in respect of the Tribunal fees she paid.

C. ORDER

[13] The Tribunal Orders that:

1. Pursuant to s. 144 (1) 6 of the Act, within 30 days of the date of this decision, Frontenac Standard Condominium Corporation No. 19 shall pay a penalty of \$250 to Adaire Chown.
2. Pursuant to s. 144 (1) 4 of the Act, within 30 days of the date of this decision, Frontenac Standard Condominium Corporation No. 19 shall pay Adaire Chown costs of \$200.

Mary Ann Spencer
Member, Condominium Authority Tribunal

Released on: February 12, 2025