

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: March 10, 2025

CASE: 2024-00708N

Citation: Kalous v. Metropolitan Toronto Condominium Corporation No. 989, 2025 ONCAT 42

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicant,

Petr Kalous

Self-Represented

The Respondent,

Metropolitan Toronto Condominium Corporation No. 989

Submission Dates: February 26, 2025, to March 5, 2025

DISMISSAL ORDER

[1] An application was submitted to the Condominium Authority Tribunal (CAT) on January 31, 2025. The CAT has reviewed the application and issued a Notice of Intent (“the Notice”) to dismiss this application under [Rule 19.1 of the CAT’s Rules of Practice](#) for the following reasons:

1. This application was submitted by Petr Kalous under the CAT’s jurisdiction related to odour concerns. The Applicant owns a unit within Metropolitan Toronto Condominium Corporation No. 989 (the Respondent).
2. The Applicant alleges that fumes are emanating from the kitchen and bathroom due to the corporation’s failure to properly service the wastewater stacks, and that the fumes were causing health risk.
3. The identified odours were related to the maintenance and repairs to the water waste stacks, as well as health concerns, which are not within the Tribunal’s jurisdiction. The Applicant was informed that there were problems with the Application. The Applicant was advised to resubmit his application if the odour issues fell within the Tribunals jurisdiction.

4. The CAT's jurisdiction is established by the *Condominium Act, 1998* (the "Act"), and Ontario Regulation 179/17 ("O. Reg. 179/17"). They contain the specific wording of the CAT's jurisdiction. The CAT does not have the legal authority to decide issues that are outside its jurisdiction.
5. The application was re-submitted. The issues remained unchanged and did not fall within the tribunal's jurisdiction as set out in O. Reg. 179/17.
6. O. Reg. 179/17, section 1 (c.1) provides subject to subsection (3), a dispute with respect to subsection 117 (2) of the Act or section 26 of Ontario Regulation 48/01 (General).
7. Section 117 (2) (b) of the Act states:

No person shall carry on an activity or permit an activity to be carried on in a unit, the common elements or the assets, if any, of the corporation if the activity results in the creation of or continuation of, ...

(b) any other prescribed nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.
8. Section 26 of Ontario Regulation 48/01 provides that, for the purposes of section 117 (2) (b) of the Act, odour is prescribed as a nuisance.

[2] The Applicant did not respond to the Notice of Intent to Dismiss.

[3] The Applicant is experiencing an odour – however, it does not appear that the odour is caused by an activity, as outlined in s. 117 (2) of the Act. Since the Tribunal does not have authority to determine maintenance and repair issues, or health and safety concerns, the dispute is out outside of the CAT's jurisdiction.

ORDER

[4] The Tribunal dismisses and orders the Application closed.

Ian Darling
Chair, Condominium Authority Tribunal