

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 25, 2025

CASE: 2024-00560N

Citation: Toronto Standard Condominium Corporation No. 2395 v. Cabello

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

Member: Nasser Chahbar, Member

The Applicant,

Toronto Standard Condominium Corporation No. 2395

Racquel Fruitman, Agent

The Respondent,

Luis Alejandro Cabello

Did not participate

The Intervenor,

Arash Mahmood

Did not participate

Hearing: Written Online Hearing – December 9, 2024 to March 24, 2025

REASONS FOR DECISION

A. INTRODUCTION

- [1] Luis Alejandro Cabello is a tenant in a unit owned by Arash Mahmood in Toronto Standard Condominium Corporation 2395 (“TSCC 2395”). In this application, TSCC 2395 alleges that Mr. Cabello has engaged in or has allowed activities to take place in his unit that have resulted in the creation of unreasonable noise that is a nuisance under s. 117(2) of the *Condominium Act, 1998* (the “Act”). TSCC 2395 seeks an order directing Mr. Cabello to stop making unreasonable noise and directing Mr. Mahmood to ensure that his tenant follows the rules of the condominium, including those prohibiting unreasonable noise.
- [2] TSCC 2395 served the first notice of application to Mr. Cabello on October 25, 2024. Mr. Mahmood was also served with the first notice of application on October

25, 2024. After neither party joined the case, two more notices were sent to them on November 8, 2024. The notice sent to Mr. Cabello stated that if he did not join the case, the Applicant could move the case directly to Stage 3 – Tribunal Decision (“Stage 3”) and that a Tribunal Member may make an order in his absence and without his input or participation. The notice sent to Mr. Mahmood also stated that if he did not join the case, the Applicant could move the case directly to Stage 3 and that a hearing could take place without his participation. This same information was provided in the third and final notices, which were delivered to each party on November 20, 2024.

- [3] On November 21, 2024, TSCC 2395 sent an email to Mr. Mahmood requesting him to join the case, to which they received no response. After Stage 3 began, I prompted Mr. Cabello and Mr. Mahmood to join the case and participate on several occasions. On December 12, 2024, Tribunal staff reached out to Mr. Cabello prompting him to join the case and participate. Neither party responded to my messages, nor did they communicate with the Tribunal. I find that Mr. Cabello and Mr. Mahmood had adequate notice of this proceeding and elected to not participate.
- [4] The Applicant is represented by Racquel Fruitman, the condominium manager.

B. BACKGROUND

- [5] In their submissions, TSCC 2395 set out the history of the noise complaints. On April 6, 2024, it was reported to TSCC 2395 that Mr. Cabello had a loud social gathering which extended into the early hours of the morning, which resulted in noise complaints from other owners. On April 8, 2024, Miss Fruitman emailed Mr. Mahmood to explain the noise complaints that were made against the Mr. Cabello.
- [6] On April 13, 2024, Mr. Cabello had another social gathering that resulted in more noise complaints. It was reported that loud voices could be heard coming from the unit at 1:00 a.m. On April 15, 2024, the first compliance letter was issued to both Mr. Mahmood and Mr. Cabello.
- [7] On June 6, 2024, it was reported that Mr. Cabello was once again engaging in loud activities at 1:30 a.m., which included blasting loud music and nailing something into the adjacent wall. On June 10, 2024, the second compliance letter was issued to Mr. Cabello and Mr. Mahmood.
- [8] Noise complaints continued to be reported on June 22, 2024, when Mr. Cabello had another loud social gathering late at night. On June 25, 2024, the third compliance letter was issued to Mr. Cabello and Mr. Mahmood.

- [9] On August 31, 2024, and September 1, 2024, more complaints were reported to TSCC 2395 after loud activities could be heard coming from Mr. Cabello's unit from 1:30 a.m. - 4:30 a.m. This resulted in the fourth and final compliance letter being issued to Mr. Cabello.
- [10] TSCC 2395 also provided a witness statement from the unit owner located directly above Mr. Cabello's unit. The unit owner affirmed the above noise disturbances and claims that they have spoken to Mr. Cabello on several occasions to address the noise issues. The unit owner stated that Mr. Cabello's behaviour has not changed.

C. ISSUES & ANALYSIS

Issue #1: Is the Respondent Tenant carrying on or allowing an activity to take place which results in the creation or continuation of any unreasonable noise that is a nuisance, annoyance or disruption, contrary to s. 117 (2) (a) of the Act or TSCC 2395's governing documents?

- [11] Section 117(2)(a) of the Act reads as follows:

(2) 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,

(a) any unreasonable noise that is a nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.

- [12] TSCC 2395's declaration, and more specifically, section 25(c) rules 1 and 2 also prohibit unreasonable and excessive noise that could disturb another unit owner's reasonable enjoyment of their unit.
- [13] I have reviewed all of the uncontested evidence submitted by TSCC 2395 and I am convinced that on at least six different occasions between April 2024 and September 2024, Mr. Cabello has allowed or created unreasonable noise that has disturbed other residents. As a result, his actions contravene section 117(2)(a) of the Act and TSCC 2395's rules.

Issue #2: If so, what remedies if any should be ordered?

- [14] I order Mr. Cabello to stop making or allowing unreasonable noise. I order Mr. Mahmood to ensure that Mr. Cabello is aware of his obligations under the Act and TSCC 2395's rules, and, in particular, that he stop making or allowing unreasonable noise.

[15] TSCC 2395 did not seek a costs award. However, Rule 48.1 of the Tribunal's Rules of Practice provides that if a case proceeds to a decision, the unsuccessful Party will be required to pay the successful Party's Tribunal fees unless the Tribunal Member decides otherwise. TSCC 2395 paid \$150 in CAT fees. Mr. Mahmood is ordered to pay \$150 to TSCC 2395 within 14 days of the date of this decision.

D. ORDER

[16] The Tribunal orders that:

1. Mr. Cabello must stop making or allowing unreasonable noise in the unit or common areas of TSCC 2395. This includes but is not limited to a requirement that he immediately cease creating unreasonably loud noise by having loud parties, playing loud music, and/or engaging in loud discussions. Mr. Cabello shall also ensure that all of his guests comply with this order.
2. Mr. Mahmood shall ensure that Mr. Cabello is aware of his obligations under the Act and TSCC 2395's rules, and that he stops making or allowing unreasonable noise to take place in their unit, and in particular that he stops holding loud social gatherings.
3. Within 14 days of the date of this decision, Mr. Mahmood shall pay to TSCC 2395 \$150, representing the Tribunal fees paid by TSCC 2395.

Nasser Chahbar
Member, Condominium Authority Tribunal

Released on: April 25, 2025