

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** June 26, 2025

**CASE:** 2024-00524

**Citation:** Moser v. Toronto Standard Condominium Corporation No. 1525, 2025 ONCAT 108

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

**Member:** Anne Gottlieb, Member

**The Applicant,**

Derrick Moser

Self-Represented

**The Respondent,**

Toronto Standard Condominium Corporation No. 1525

Represented by Kimberly Cobet, Agent

**Hearing:** Written Online Hearing – February 21, 2025, to June 9, 2025

### **REASONS FOR DECISION**

#### **A. INTRODUCTION**

- [1] The Applicant, Mr. Moser, is a unit owner who made a Request for Records (the “Request”). The Respondent Toronto Standard Condominium Corporation No.1525 (“TSCC 1525”) provided records. The parties do not agree on the timing of the Board Response to Request for Records (the “Board Response”) in relation to the thirty days to deliver the records, in accordance with the *Condominium Act 1998* (the “Act”).
- [2] The Request dated May 17, 2024, asks for the minutes of all board meetings held within the last twelve months and specified the dates from June 1, 2023, to May 6, 2024. The Applicant asks me to find that he was refused records without a reasonable excuse and asks that I award a penalty of \$2000. There is also the question of reimbursement for filing fees to bring this matter to a hearing.
- [3] The Stage 2 Summary and Order indicates that the only issue to be decided is whether the Tribunal should impose a penalty on TSCC 1525 for refusing to

provide the records without a reasonable excuse. It outlines a specific two-part test for the determination of that issue, namely, to first determine if TSCC 1525 refused to provide the records, and if so, assess if they had a reasonable excuse for the refusal.

- [4] At the commencement of this hearing, the sole issue of penalty was confirmed with the parties as the only matter for determination in this case. Many weeks into the hearing, the Applicant attempted to introduce other issues respecting the completeness of the information contained in the records provided and the possible existence of 'in camera' minutes. I did not consider any submissions on these issues.
- [5] For the reasons set out below, I find that TSCC 1525 provided all the records and that there was no refusal to provide records in this case. In these circumstances, it is not appropriate to award a penalty, and I dismiss this case without costs.

## **B. BACKGROUND**

- [6] The Applicant states that on May 17, 2024, he deposited the Request in the condominium corporation's mailbox. The Request was for "all minutes for board meetings between 2023/06/01 and 2024/05/16". The Request indicated that he wanted electronic copies of the records.
- [7] TSCC 1525 claims that the Request was not delivered directly to the management office but that it was left in the management mailbox in the mailroom. The submission is that owners were never told to use the mailroom for communication to management.
- [8] As the Applicant correctly states, pursuant to section 13.3 (4) of Ontario Regulation 48/01 a request for records is "sufficiently delivered" if it is deposited in the mailbox for an address of the corporation or the condominium management provider. I therefore accept the date of service of the Request as May 17, 2024.
- [9] It appears that the manager was absent from the office on May 17, 2024, and due to illness and did not return to the office until May 28, 2024. TSCC 1525 claims they received the Request on May 28, 2024, which is six business days after May 17, 2024.
- [10] I accept the evidence of the following sequence of events: On June 21, 2024, the new manager sent an email to the Applicant, introducing herself, and attaching the Board Response and the requested minutes that had received approval. This

included minutes for board meetings held on October 11, 2023, November 7, 2023, and February 21, 2024 (the “three sets of minutes”). The evidence indicates that the email ‘bounced back’. The manager contacted the Applicant the following business day, by phone, to inform him of the issue with his email. Another email was sent to the Applicant on June 24, 2024. The evidence shows that this email was also returned as not delivered. The Applicant was contacted, and he asked that the documents be sent to his wife's email address. A ‘test email’ was sent on June 26, 2024, to the Applicant’s wife’s email. When that email was acknowledged, the three sets of minutes were sent to the Applicant’s wife’s email address, on June 28, 2024.

### **C. ISSUES AND ANALYSIS**

#### **Issue 1: Has TSCC 1525 refused to provide records to the Applicant without a reasonable excuse?**

- [11] The Applicant claims that he was first contacted by TSCC 1525 more than 30 days from the delivery of the Request. He states that this is beyond the timeline set out in the Act.<sup>1</sup> He states that this is effectively a refusal to provide records.
- [12] There is evidence to support the fact that there were several reasons for a small delay that occurred with respect to the delivery of the three sets of board minutes. These include: the absence of the manager from the office; multiple attempts to deliver the records electronically to the Applicant; and contacting the Applicant by phone on two occasions, to advise him of the situation. On the facts of the case before me, I find that there was no refusal to provide records, albeit that there was a minor delay.
- [13] The Applicant cites the case of *Gary Nakashima v Metropolitan Toronto Condominium Corporation No. 818*,<sup>2</sup> to establish that staffing issues are not a reasonable excuse for not providing records in a timely manner. That case refers to a delay of multiple months in responding to a request for records, and not a delay of days, as in this case.
- [14] Some time after receiving the records on June 28, 2024, the Applicant sent a follow up email to inquire about minutes for other board meetings held during the timeframe requested. The manager replied by email on July 16, 2024, explaining that the minutes from the recent AGM (Annual General Meeting) and the board

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<sup>1</sup> Per subsection 13.3 (6) of Ontario Regulation 48/01

<sup>2</sup> *Gary Nakashima v Metropolitan Toronto Condominium Corporation No. 818*, 2020 ONCAT 17

minutes of May 9, 2024, had not yet received board approval. The Applicant argues that failing to provide him with the draft board minutes amounts to a refusal. I do not find this to be a refusal to provide records.

- [15] There are numerous cases in which the Tribunal has held that meeting minutes require approval before they are considered records of the condominium corporation. The Applicant was not refused minutes without a reasonable excuse, because draft minutes are not a record of the corporation to which he is entitled. The May 9, 2024, minutes were ultimately approved and provided to the Applicant on November 24, 2024.

**Issue 2: Should a penalty be awarded?**

- [16] Section 1.44 (1) 6 of the Act states that the Tribunal may order a penalty if it finds that the condominium corporation has, without reasonable excuse, refused to permit an owner to examine or obtain copies of records. The Applicant asks that I award the penalty of \$2000 for the refusal to provide records. As I have found that there was no refusal to provide the records, no penalty is warranted.

**Issue 3: Should an order for fees or costs be awarded?**

- [18] The Applicant has not been successful in this application and is not entitled to his costs to bring this matter to the Tribunal.

**D. ORDER**

- [19] The Tribunal orders that:

1. This case be dismissed without costs.

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Anne Gottlieb  
Member, Condominium Authority Tribunal

Released on: June 26, 2025