

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 29, 2025

CASE: 2025-00111N

Citation: Niagara South Standard Condominium Corporation No. 85 v. Savriga, 2025 ONCAT 123

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

Member: Brian Cook, Member

The Applicant,

Niagara South Standard Condominium Corporation No. 85
Represented by Aarij Ahmed, Counsel

The Respondent,

Taylor Lawrence Edward Savriga,
Not participating

Hearing: Written Online Hearing – April 8, 2025 to July 9, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] Taylor Lawrence Edward Savriga is an owner and occupant of a unit in Niagara South Standard Condominium Corporation No. 85 (“NSSCC 85”) NSSCC 85 has filed this Application because of numerous complaints that Mr. Savriga is not compliant with the rules about noise and smoking.

B. PARTICIPATION BY THE PARTIES

Participation by Mr. Savriga

[2] Mr. Savriga did not join this case when it was filed by NSSCC 85. As a result, the case proceeded to the adjudication stage of the Tribunal’s process. Shortly after that, Mr. Savriga did join the case but did not otherwise participate. At my request, Tribunal staff attempted to contact Mr. Savriga on April 16, 2025. The staff member left a voice message and sent an email confirming the need to participate and warning of the consequences if he did not do so. No reply was received from Mr. Savriga. NSSCC 85 has provided copies of the notices of the case that were

delivered to Mr. Savriga.

- [3] Based on the information available to me, I conclude that Mr. Savriga was aware of this case. After joining the case, he had access to all the documents, including those setting out the allegations about him.
- [4] By choosing to not participate, Mr. Savriga gave up his right to challenge the evidence provided by NSSCC 85, or to present his own evidence or submissions. As a result, the case is decided on the basis of the evidence and submissions provided by NSSCC 85.

Participation by NSSCC 85

- [5] The adjudication of this case commenced on April 8, 2025, when I sent directions about confirmation of participation and filing documents. Aarij Ahmed, counsel for NSSCC 85 advised that he had a trial commencing on April 16 and that the condominium manager was on vacation from April 23 – 30.
- [6] On April 28, Mr. Ahmed requested a further three weeks to file documents because of a trial and the condominium manager's vacation. On May 7, Mr. Ahmed advised that he required a "few more weeks" to prepare the documents.
- [7] The hearing documents were finally uploaded on May 30. Mr. Ahmed indicated they would also like to file submissions as well. These were eventually provided on July 3.
- [8] The significant delays in this case are not consistent with the Tribunal's goal of providing expeditious dispute resolution. However, the delays here were caused entirely by the Applicant or its counsel. The Respondent did not communicate at all in the ensuing three months and there was no prejudice to him. For these reasons, I was content to wait for the documents and submissions to be received in the fullness of time.

C. ANALYSIS

Applicable law and rules

- [9] Section 117 (2) of the *Condominium Act, 1998* (the "Act") provides as follows:

117(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; or

(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.

[10] Smoke and odour are prescribed nuisances for the purpose of s. 117 (2) (b) of the Act.

[11] Rule 11 of the NSSCC 85 Rules provides that noise that results in a nuisance to other residents is not permitted. Rule 24 prohibits smoking on the premises, including in individual units and balconies.

Complaints

[12] NSSCC 85 alleges that in the period of January 2024 to May 2025, multiple complaints were received regarding Mr. Savriga and his behaviour. These include smoking in his unit and on the common elements, unreasonable noise coming from his unit, and engaging in “altercations” with other occupants.

[13] A written statement from a board member outlines some of the complaints. She indicates that as a result of various complaints received by the condominium manager and the board the following notices were sent to the Applicant:

1. The first notice of violation dated January 2, 2024, based on various complaints about smoking received between November and December 2023.
2. The second notice of violation dated February 29, 2024, based on complaints about smoking received on February 25, 2024.
3. The third notice of violation dated April 10, 2024, based on various noise complaints received between March 31 and April 9, 2024.
4. The fourth notice of violation dated April 16, 2024, based on various complaints regarding an altercation involving the Applicant in the parking lot of the property.
5. The fifth notice of violation dated April 25, 2024, based on various complaints about noise and smoking received between April 23 and April 24, 2024.

[14] A notice sent on May 8, 2025 (after the Application was filed), indicates that as a

result of a serious noise complaint, the police were called. The police were not granted access to Mr. Savriga's unit and had to break the door down.

- [15] The board member's evidence is that she personally observed two incidents. One, on December 6, 2024, involved a dispute between Mr. Savriga and an occupant of the Unit, which resulted in that occupant being thrown out of the Unit and into the hallway. The occupant then began banging and screaming at the locked door of the Unit to be let in. On July 2, 2024, the board member heard the Applicant having a very loud and verbally abusive fight with an occupant of his unit.
- [16] NSSCC 85 engaged counsel in May 2024, leading to three letters from counsel explaining that Mr. Savriga was smoking and causing or permitting unreasonable noise that was affecting others. The letters explained that there would be legal consequences if these activities continued.

Conclusions

- [17] As noted above, the evidence before me indicates that Mr. Savriga was aware of this Application and decided to not participate. As a result, he lost his right to challenge the allegations made about him or to produce his own evidence. The case must therefore be decided on the basis of the documents and submissions provided by NSSCC 85.
- [18] NSSCC 85 has provided little direct evidence to support the allegations made in the Application. The direct evidence is limited to the statement from the board member who witnessed some of the incidents. The evidence supporting other alleged incidents consists of the notices and letters sent to Mr. Savriga. This evidence is not direct evidence because the people sending the notices and letters did not directly witness the alleged events. However, this indirect, or circumstantial evidence, is relevant and helps establish that complaints were made about noise and smoking. If Mr. Savriga had participated in the case, he would have had an opportunity to challenge the evidence and allegations. Since he did join the case, he had access to all the documents including those setting out the allegations and evidence. This supports the inference that he did not challenge the allegations and may be taken as further evidence supporting the allegations.
- [19] I accept that Mr. Savriga has smoked in his unit and/or his exclusive-use common elements balcony in contravention of Rule 24 of the NSSCC 85 Rules. Smoking when smoking is prohibited is unreasonable. I accept that the smoking resulted in a nuisance or annoyance to other residents.
- [20] I also accept that Mr. Savriga has caused or permitted loud noise in contravention

of s. 117 (2) of the Act and Rule 11 of the NSSCC 85 Rules. The noise seems to be mostly the result of “altercations” with others. The Tribunal does not have jurisdiction to deal with allegations of physical altercations but does have the jurisdiction to deal with allegations of unreasonable noise. In the absence of any evidence to the contrary, I find that Mr. Savriga has caused or allowed unreasonable noise. I accept the evidence in the statement from the board member and find that the noise creates a nuisance, annoyance or disruption for others, contrary to s. 117 (2) of the Act, and the NSSCC 85 Rules.

D. COSTS & COMPENSATION

- [21] NSSCC 85 seeks an order directing Mr. Savriga to pay the costs it has incurred in this case. In particular, it seeks \$2,586.76 as compensation for the cost of producing the three letters from counsel and \$4,101.57 for the costs associated with participating in the hearing.
- [22] Compensation for costs related to attempts to seek compliance with the law and rules may be granted under s. 1.44 (1) 3 of the Act, if the costs are reasonable. I note that the three letters are not long and are very similar, consisting mostly of setting out the applicable law and rules. I find that compensation in the amount of \$1,250 (roughly half the amount claimed) is reasonable and appropriate.
- [23] Section 1.44 (1) 4 of the Act provides that the Tribunal may make an order directing one party to pay the costs of another party. Rule 48.2 of the Tribunal's Rules of Practice provides that the Tribunal does not generally order one party to reimburse another party for legal costs incurred in the course of the proceeding. Exceptions may be made based on a party's conduct during the hearing. Mr. Savriga did not participate in the hearing. The Tribunal's Practice Direction on awarding costs provides that other factors that may warrant a cost award include how the parties attempted to resolve the issues in dispute before the case was filed and before costs were incurred. In this case, NSSCC 85 made repeated attempts to seek compliance with the Rules. On the basis of the evidence before me, it appears that Mr. Savriga ignored these, leaving NSSCC 85 with no option but to file this Application. I find that a cost award for some of the costs associated with bringing the Application is appropriate.
- [24] The Practice Direction indicates that factors to be considered in determining the amount of costs include whether the costs incurred are reasonable and appropriate and proportional to the nature and complexity of the issues in dispute. When costs are awarded, the full amount of the costs are usually not granted.
- [25] I find that legal costs were necessary and appropriate. While the costs claimed are

reasonable, I have also considered the significant delays in providing the evidence and submissions. I find that an order requiring Mr. Savriga to pay \$2,000 in legal costs is reasonable and appropriate.

[26] Rule 48.1 of the Tribunal's Rules of Practice provides that the losing party will be required to pay the Tribunal fees if they have been incurred by the successful party, unless the member decides otherwise. In this case I find that Mr. Savriga is required to pay the \$150 in Tribunal fees incurred by NSSCC 85.

E. ORDER

[27] The Tribunal orders that:

1. Under s. 1.44 (1) 2 of the Act, Mr. Savriga is ordered to comply with s. 117 (2) of the Act and the NSSCC 85 Rules. In particular, he must not smoke in his unit, including the exclusive-use balcony, or when in the NSSCC 85 common elements areas. He must also refrain from causing unreasonable noise.
2. No later than 60 days after the date of this decision, Mr. Savriga shall pay NSSCC 85 \$3,400 representing compensation \$1,250 for costs incurred by NSSCC 85 seeking compliance with the rules, \$2,000 in legal costs, and \$150 for the Tribunal filing fees.

Brian Cook
Member, Condominium Authority Tribunal

Released on: July 29, 2025