

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 30, 2025

CASE: 2025-00434N

Citation: He v. York Condominium Corporation No. 211, 2025 ONCAT 124

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

Member: Ian Darling, Chair

The Applicant,

Helen He,

Self-Represented

The Respondent,

York Condominium Corporation No. 211

Submission Dates: June 24, 2025 to July 2, 2025

DISMISSAL ORDER

- [1] An application was submitted to the Condominium Authority Tribunal (CAT) on June 16, 2025. This Order explains why the application is dismissed under Rule 19.1 of the CAT's Rules of Practice.
- [2] This application was submitted by Helen He under the CAT's jurisdiction to decide disputes about indemnification related to its nuisance jurisdiction.
- [3] The condominium corporation charged legal fees of \$2,688.05 to the Applicant's unit to recover costs it incurred defending a Human Rights Tribunal of Ontario (HRTO) case submitted by the owner's former tenant.
- [4] The Applicant argues that she should not be held responsible for the chargeback, as it resulted from her tenant's actions and she was not a party to the case. The problem description stated that:

The condominium corporation has cited Section 10 of the Declaration as the basis for this charge. That section states:

"Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the

Corporation may suffer or incur resulting from or caused by an act or omission of such owner, his family or any member thereof, any other resident of his unit or any guests, invitees or licensees of such owner or resident..."

- [5] She further claims that the corporation's indemnity provision does not apply in this case because it is a general provision and that there has been no adjudication, tribunal ruling, or court order confirming she was responsible for any loss or misconduct. Along with the application to the CAT, the Applicant provided caselaw (*Amlani v. YYC 473*, 2020 ONSC 5090) to support her assertion that the condo corporation can not charge back legal fees to the unit unless those costs were part of a court order.
- [6] The Applicant also provided communication between the Applicant and the Condominium Manager, where the Manager asserted that the board had reviewed her request, and would only consult with legal counsel if the Applicant pay for the opinion.
- [7] The CAT does not have jurisdiction to deal with all chargebacks. The CAT returned the application and explained that the Tribunal has jurisdiction to consider disputes about indemnification or compensation only related to issues within the CAT's jurisdiction.
- [8] The Tribunals' jurisdiction regarding indemnification and compensation is set out under s. 1 (1) (d) (iii.2) (iv) of the Ontario Regulation 179/17 and states the following.
1. (1) The prescribed disputes for the purposes of subsections 1.36 (1) and (2) of the Act are,
- (d) subject to subsection (3), a dispute with respect to any of the following provisions of the declaration, by-laws, or rules of a corporation:
- (iii.2) Provisions that prohibit, restrict or otherwise govern any other nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.
- (iv) Provisions that govern the indemnification or compensation of the corporation, an owner or a mortgagee regarding a dispute described in this clause.
- [9] The Applicant was advised of the possible problems with the application and was invited to correct them. The Applicant resubmitted the application; the jurisdictional concerns remain. After reviewing the revised Application, the CAT initiated a Notice of Intent to Dismiss the Case. The parties responded. The Applicant

asserted that the chargeback was unauthorized. The Respondent asserted that it was justified. Neither addressed if the Tribunal had the authority to decide the issue. This order is based on an interpretation of the CAT's jurisdiction, and is not a finding on the question of whether the Respondent has applied the Amlani decision correctly.

[10] After reviewing the submissions, I have concluded that the original chargeback is not an issue over which the CAT has jurisdiction since it does not follow from an issue that falls within the CAT's jurisdiction.

ORDER

[11] The application is dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: July 30, 2025