

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: July 30, 2025

CASE: 2024-00425N

Citation: Muskoka Condominium Corporation No. 42 v. 2855531 Ontario Inc., 2025 ONCAT 126

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

Member: Anne Gottlieb, Member

The Applicant,

Muskoka Condominium Corporation No. 42

Represented by Warren Mouck, Counsel

The Respondent,

2855531 Ontario Inc.

Represented by Domenic Saverino, Counsel

Hearing: Written Online Hearing – January 28, 2025- July 14, 2025.

Video conference hearing dates – April 28, 2025, May 21, 2025, May 28, 2025.

REASONS FOR DECISION

A. INTRODUCTION

- [1] The Applicant, Muskoka Condominium Corporation No. 42 (“MCC 42”), is comprised of three units. One unit is owned by 2855531 Ontario Inc. (the “Respondent”) and is occupied by Ms. Ewa Ricci and Mr. Ralph Canonaco, (jointly referred to as “the Occupants”). They began to reside in the unit in June 2023. Both Mr. Canonaco and Ms. Ricci are directors of 2855531 Ontario Inc. Each of the two other units are owned by individuals, who serve as members of the Board of Directors (the “Board”) for MCC 42. They are Mr. Donald Baker (President) and Ms. Maureen Mitchell-Morrison (“Ms. Morrison”), who acts as Treasurer.
- [2] MCC 42 brings this application alleging that the Respondent and the Occupants have breached the provisions of its governing documents with respect to parking and pets. The Applicant claims that the Respondent and Occupants are not in compliance with the condominium corporation’s parking rules which allocate one parking spot per unit. MCC 42 further alleges that the Occupants are not in compliance with its no-pet rule. MCC 42 seeks an order requiring the Respondent

and the Occupants to comply with its parking and no-pet rules. MCC 42 also seeks costs to cover its legal costs incurred.

- [3] For the reasons outlined below, I find that the Respondent and the Occupants have failed to comply with their respective obligations as required by MCC 42's rules. I order the Respondent and the Occupants to comply with MCC 42's rules in respect of parking and order the Occupants to permanently remove the dog Rambo, from the premises within ten days of the date of this decision. I further find it appropriate to order the Respondent to pay MCC 42 for \$6,500 of the legal costs incurred for participating in the Tribunal proceeding, and \$200 for the Tribunal filing fees.

B. ISSUES & ANALYSIS

Issue No. 1: Are the Respondent and the Occupants in compliance with MCC 42's parking rules, and if not, what is the remedy?

- [4] The designation and use of parking spaces are outlined in MCC 42's governing documents. The applicable provisions are as follows:

Declaration: Schedule "F" Exclusive Use Portions of the Common Element

The owner of each unit shall have the exclusive use, subject to the provisions.....

and one parking area as set out in the schedule

Rules and Regulations:

4. The Condominium assigns parking spaces, with one space allocated to each unit. Additional parking spaces, if and when available, are chargeable, at a rate determined by the Board of Directors, and charged as common expenses/condominium fees

6. No motor vehicle other than a private passenger automobile, station wagon or private van shall be parked on any part of the parking area....

14. Owners/residents are responsible for ensuring that visitor's guests, invitees, delivery people, pick up people, and other people having business with them, respect, and therefore NOT USE, even for a moment, the parking spaces assigned too other residents, or block them in any way.

- [5] A schematic drawing made by Ms. Morrison was entered into evidence, which shows four parking spaces on the property. This drawing was helpful during the testimony of the parties, to identify the location of the allotted parking spaces. Mr.

Baker, Ms. Morrison and Ms. Ricci all identified the same parking area assigned to their own unit and the spaces assigned to the other units.

- [6] According to Ms. Morrison, there are four parking spots, with one spot assigned to each unit. The fourth parking spot is not assigned and can be 'reserved/rented' on an annual basis, by paying an annual fee of \$75. Mr. Baker testified that he paid the fee and used this additional parking spot, until the start of 2025.
- [7] Ms. Ricci claims that there is room for five vehicles (not four) on the property. Mr. Baker indicated that there was a prior license with the Town of Gravenhurst for additional parking, that is no longer current. Rule 5 of the Rules and Regulations refers to five parking spaces, two of which are subject to a Licence of Occupation agreement with the Town of Gravenhurst. The evidence is that MCC 42 no longer has a Licence of Occupation with the Town and therefore Rule 5 is no longer applicable. I find that based on the testimony of Ms. Morrison and Mr. Baker, the property currently has four parking spaces.
- [8] Ms. Morrison described multiple vehicles, owned or operated by the Occupants, which are parked on the property, sometimes concurrently. These include: a red pickup truck; a black Cadillac Escalade; a black Mercedes; and blue Bentley. She indicated that at times, all four of these vehicles have been parked at MCC 42, concurrently.
- [9] Ms. Morrison testified that the Occupants, or guests and visitors to the Respondent's unit have utilized all four parking spaces from time to time. Ms. Morrison recounted an altercation over the use of her own parking space, with a young woman hired to clean the Respondent's unit, who was parked in the parking spot designated for Ms. Morrison's unit. This incident was referred to in an email that Ms. Morrison sent to Mr. Baker on November 3, 2023, describing multiple vehicles on the property including one in her parking space and another occupying Mr. Bakers parking space.
- [10] Ms. Ricci recalls the incident referred to by Ms. Morrison and characterizes it as a 'one time' incident. In cross examination Ms. Ricci confirmed the various vehicles identified and used by herself and Mr. Canonaco. She admitted that there are occasional visitors to the unit, including her sister, and her mother and that there are occasional visits from her employee, and someone hired to clean the unit. Based on the evidence before me, it appears that the Occupants and their visitors and guests parked in spots designated for the other owners, even though they were not permitted to do so.

- [11] In closing remarks the Respondent submitted, for the first time, that Rule 14 is not reasonable in that deliveries cannot be made by parking on the property for “even a single moment”. The Respondent claims that for this reason the rule is not enforceable. I was not provided with any evidence regarding the reasonableness of Rule 14 from the Respondent. The evidence from Ms. Morrison and Mr. Baker is that there has not been an issue in the parking lot prior to the occupancy of the Occupants in June 2023. I am not making any ruling in this regard and note that the parking rule violations complained of deal with vehicles owned and operated by the Occupants and their visitors and guests.
- [12] I accept that there are numerous vehicles associated with the Occupants and their visitors and guests, parking on the property, in parking spots designated to other units. This is contrary to the parking rules of MCC 42. I accept that there have been altercations over the parking of multiple vehicles by the Occupants or their guests and visitors. I find that the Occupants are not complying with the parking rules of MCC 42. I order the Respondent, and the Occupants and any of their visitors and guests to come into compliance with the parking rules of MCC 42 and limit the use of the parking lot to the one space assigned to the Respondent’s unit. Nothing in this order precludes the parties from coming to an agreement for a unit to pay for the use and occupancy of the fourth ‘additional’ parking space on the property. However, there must be agreement.

Issue No. 2: Are the Respondent and the Occupants in compliance with MCC 42’s no pet rule and if not, what is the remedy?

- [13] Ms. Ricci acknowledges that she keeps a dog, called Rambo in the unit. She says the dog is there on the weekends, and sometimes also on Mondays until Tuesday morning. She claims the dog does not bark and that the dog is taken off the property to relieve itself. Rambo is a King German Shepherd and is characterized by Ms. Ricci as a ‘working dog’. Rambo is used as a service dog for clients of Muskoka Recovery during weekdays. Ms. Ricci owns or is involved in the ownership of Muskoka Recovery.
- [14] MCC 42 has a rule regarding pets. It is considered a no pet property. Rule 3 states:

The Condominium is designated as a ‘no-resident-pets’ and ‘no-visitor-pets’ condominium. No animal, reptile, insect, or bird shall be kept inside or outside any not, on the common area, or on the property. Should this occur, then the pet or pets shall be deemed a nuisance by the Board/Management and Management shall request the immediate removal of any and all pets from the property.

- [15] There is evidence that having a dog on the property was an important consideration at the time of purchase of the unit by the Respondent. There is evidence that it was a condition in the agreement of purchase and sale. That agreement is between the purchaser and the seller of the unit, which is noted as “for the benefit of the buyer”.
- [16] There is a document signed by Ms. Morrison and Mr. Baker dated March 21, 2023, (the ‘Proposal’), titled Proposal of Acceptance of Household Pets/Service Dog by Unit. Under a heading called ‘Reason for This Proposal’ are the following words: “Prospective buyers for Unit...have requested that the Board of Directors provide written approval to allow them to bring their service dog to the condo.”
- [17] The proposal then goes on to list eight conditions. Three of those conditions are of note:
1. Only your current dog Rambo, who is a certified service dog is covered by this exemption, subject to the provision of the certification document.
 7. This exemption recognizes that as per Rule #23, all owners have the right to full enjoyment of Blue Heron House.
 8. Failure to abide by these rules will result in this exemption being withdrawn.
- [18] Mr. Baker testified that there were discussions on June 27, 2023, between the Occupants, Mr. Canonaco and Ms. Ricci, and Mr. Baker and Ms. Morrison, about allowing Rambo to live in the unit as an accommodation pursuant to the Human Rights Code. Mr. Baker’s spouse, Ms. Shilton, was also present at this meeting. The meeting was to clarify the application of MCC 42’s Rules prohibiting pets. There was no documentation provided that Rambo was a support animal required as an accommodation.
- [19] Article 8 of the Ontario Human Rights Commission’s Policy on Ableism and Discrimination Based on Disability entitled “Duty to Accommodate,” sets out the type of information that accommodation seekers may generally be expected to provide to support a request for accommodation. This information includes that “the person has a disability; the limitations or needs associated with the disability; the requirements ... of being a service user; the type of accommodation(s) that may be needed ...”
- [20] There was never any medical documentation provided to indicate that Ms. Ricci needed a service animal. There is no evidence to support a claim by Ms. Ricci for an accommodation. There is a letter from a doctor at the Muskoka Recovery, dated February 23, 2023, regarding Rambo. The letter states:

This letter is to certify that Muskoka Recovery, a treatment home for substance abuse and mental health, utilizes the above named animal for emotional support as part of the residential treatment program. This is a request for reasonable housing accommodation under Ontario ESA law, which governs fair treatment of such animals.

- [21] Ms. Ricci did not provide evidence of a medical condition or need for a service animal. She stated she may have had a doctor's letter some twenty years ago. The evidence from Ms. Ricci herself is that Rambo works at Muskoka Recovery (her own business). According to Ms. Ricci, Rambo works during the day and is not in her unit until the weekend. On these facts and this admission, I cannot find that Ms. Ricci relies on Rambo for emotional support or that she requires Rambo as an accommodation.
- [22] There is evidence that the presence of Rambo was an issue as early as June 27, 2023, when a meeting took place in Mr. Baker's unit. Mr. Baker indicated he communicated the concerns about the dog directly with the Occupants. Ms. Morrison testified that Rambo is often out on the common elements. She also testified that the barking has woken her up at night. Mr. Baker testified that Rambo is a large and intimidating animal and has been on the dock¹. Both Ms. Morrison and Mr. Baker indicated that the presence of Rambo is interfering with the use and enjoyment of their respective units.
- [23] Ms. Ricci claims that Rambo never barks and that he is well behaved. She says that he is always escorted (driven) off the property to relieve himself, by Mr. Canonaco.
- [24] The Applicant submits that the Respondent has not challenged the reasonableness of the no-pets rule, but rather simply asserts that the pet is a "service dog". The Respondents have provided no evidence to support their claim that an accommodation for a service dog is required.
- [25] The Respondent and Occupants have had ample time to provide evidence that Rambo is a support animal for Ms. Ricci. The evidence before me is that Rambo works as a service animal at Muskoka Recovery, which is owned by Ms. Ricci. Taking the evidence as a whole and considering that Rambo doesn't stay in the unit with Ms. Ricci for several days per week, I find that there is no evidence to support Rambo's presence in the unit as an accommodation under the Human Rights Code. I further find, on the evidence, that Rambo is interfering with the quiet enjoyment of the other unit owners, and that the Respondent and Occupants have

¹ Point #5 of the the Proposal states that "pets or service dogs are not allowed on the docks ..."

been told about this interference. I therefore order the Respondent and Occupants to permanently remove Rambo from the property within 10 days of the date of this decision.

Issue No. 3 Should the Tribunal award any costs?

- [26] The Applicant seeks recovery of its costs in the amount of \$13,555.78, or in the alternative, an amount deemed reasonable. Pursuant to the Tribunal's Rules of Practice and particularly Rule 48.2, the Tribunal has jurisdiction to order costs where the behaviour of one party is unreasonable, undertaken for an improper purpose, or caused delay or additional expense.
- [27] A letter was submitted into evidence dated January 17, 2024, from lawyers for MCC 42 to the Respondent, outlining breaches of the Act and the corporation's governing documents. This letter demanded that the Respondent: "Please immediately cease using parking spaces that are assigned to other residents and remove all your miscellaneous personal items from the common elements by no later than January 29, 2024, and remove the resident dog from the Corporation by no later than February 16, 2024."
- [28] This letter further stated that:
- Failing compliance, the Corporation may make an Application to a judge to obtain an order directing you to comply with the *Act* and the Corporation's Declaration and Rules and/or to commence a proceeding at the Condominium Authority Tribunal. For your information, it is not unusual for the cost of such steps to exceed \$15,000.00 per party. If costs are awarded, they form a lien against your unit in priority to your interest and to the mortgagee's interest.
- [29] The Tribunal's "Practice Direction: Approach to Ordering Costs" provides guidance regarding the awarding of costs. Factors to be considered include: whether a party or representative's conduct was unreasonable, for an improper purpose, or caused a delay or expense; whether the case was filed in bad faith or for an improper purpose; the conduct of all parties and representatives; the potential impact an order for costs would have on the parties; the indemnification provisions in a corporation's governing documents and whether the parties attempted to resolve the issues in dispute before the CAT case was filed.
- [30] The parking issue should not have required a hearing. Ms. Ricci clearly identified which parking space belonged to which unit during her testimony. The evidence is that Ms. Ricci was aware of the parking space designated to the unit which she and Mr. Canonaco occupy. The Stage 2 Summary and Order indicates that the parties had a two month adjournment from October to December 2024, to try and

work out their differences. At the very least the parking issue should have been resolved, prior to the Stage 3 – Tribunal Decision.

- [31] In opening remarks, the Respondent stated to the Tribunal that an agreement was reached with the Applicant regarding the parking spaces on the property. This was not accurate and was a misleading statement. The parking issue added to the length of this hearing. This is a factor in considering the award of costs in this decision. I estimate that the parking issue occupied approximately half of the time spent during the hearing and in submissions.
- [32] The presence of Rambo in the unit and on the common elements of MCC 42 and the application of the no-pets rule was not clear cut. That issue did require evidence and submissions to come to a determination on the facts. The award of costs is discretionary. Under the circumstances of this case, I award \$6,500 for legal costs to the Applicant, to be paid by the Respondent.
- [33] MCC 42 was successful in establishing a breach of its rules and I find it appropriate to award \$200 for Tribunal filing fees to the Applicant.

C. ORDER

[34] The Tribunal Orders that:

1. The Respondent and Occupants shall immediately comply with the parking rules of MCC 42 and only utilize the parking space designated for the Respondent's unit, for their own use and the use of any of their guests and visitors.
2. The Respondent and Occupants shall, within ten (10) days of the date of this decision, permanently remove Rambo from the unit and the common elements of MCC 42, pursuant to ss. 1.44(1)1 of the Act.
3. Within thirty (30) days of this decision the Respondent shall pay the amount of \$6,500 to the Applicant for its legal costs and compensation and \$200 to reimburse it for its Tribunal filing fees, pursuant to ss. 1.44(1)4 of the Act.

Anne Gottlieb

Member, Condominium Authority Tribunal

Released on: July 30, 2025