

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: August 12, 2025

CASE: 2025-00405N

Citation: Jackson v. Simcoe Condominium Corporation No. 69, 2025 ONCAT 133

Order under Rule 4 of the Condominium Authority Tribunal's Rules of Practice.

Member: Nicole Aylwin, Vice-Chair

The Applicant,

Elizabeth Jackson

Self-Represented

The Respondent,

Simcoe Condominium Corporation No. 69

Represented by Tony Bui, Counsel

Submission Dates: June 17, 2025, to July 17, 2025

MOTION ORDER

A. INTRODUCTION

- [1] The Applicant, Elizabeth Jackson, filed an application with the Tribunal on June 6, 2025, against the Respondent, Simcoe Condominium Corporation No. 69. The Problem Description, which accompanied the application, identified the issues in dispute as relating to a compliance issue with provisions in the condominium's governing documents that address "other types" of a nuisance, annoyance or disruption. Specifically, the Applicant claimed the letter sent to her in March of 2025 by the Respondent, which alleged non-compliance with the Respondent's Harassment Rule, was an unreasonable enforcement action. She claims the letter was improper and that it was only sent to her in retaliation for her pursuit of legal remedies against the corporation. The application was accepted by the Tribunal on June 16, 2025.
- [2] On June 17, 2025, the Respondent made a motion to dismiss this case under Rule 19.1 of the Tribunal's Rules of Practice ("Tribunal's Rules"). It also requested that the Tribunal deem the Applicant a vexatious litigant and require her to obtain the Tribunal's permission before filing further applications pursuant to Rule 4.6 of the

Tribunal's Rules.

- [3] Both parties made submissions on the motion. For the reasons set out below, I decline to grant the motion. The application will be allowed to proceed and there will be no order, at this time, deeming the Applicant a vexatious litigant.

B. ANALYSIS

- [4] The Respondent argues that this application ought to be dismissed pursuant to the Tribunal's Rule 19.1 (b) (c) (d), which states:

The CAT can dismiss an application or Case at any time in certain situations, including:

...

(b) Where a case has no reasonable prospect of success;

(c) Where a Case is about issues that the CAT has no legal power to hear or decide;

(d) Where the Applicant(s) is using the CAT for an improper purpose (e.g., filing vexatious Applications);

- [5] The Respondent makes three arguments as to why the application should not proceed:

1. That the Applicant's grievances are about the content of the letter sent to her and that the Tribunal has no jurisdiction to deal with the contents of the corporation's communications with owners. Additionally, it submits that due to Applicant's claim that the purpose of the letter is "retaliatory" that this claim is one of oppression, which would fall under section 135 of the *Condominium Act, 1998* ("the Act") over which the Tribunal has no jurisdiction.
2. That the application has no reasonable prospect of success as the Respondent has only taken and continues to take reasonable steps to enforce its Harassment Rule, one of which was sending the letter to the Applicant.
3. That the application is vexatious and was filed for an improper purpose. It submits that the Applicant's repeated use of the Tribunal and the courts demonstrates vexatiousness. It further submits that the application has been filed with the intent to harass the Respondent and to attempt to control how it is governed, not to assert legitimate rights.

- [6] I find none of the arguments put forward by the Respondent persuasive.
- [7] First, while the application makes frequent reference to content of the letter sent to the Applicant, the core of the Applicant's complaint is about the fact that the content of the letter alleges non-compliance with the Respondent's Harassment Rule. According to the Applicant, issues related to the attempted enforcement of this rule fall within the Tribunal's jurisdiction pursuant to Ontario Regulation 179/17 s. 1(1) (d) (iii.2). I make no finding on whether the rule itself falls within the jurisdiction of the Tribunal, as this question is not before me, however, I accept that, on its face, the substance of the application relates to an issue of compliance with provisions of the governing document which may fall under the jurisdiction of the Tribunal.
- [8] I further find that the Applicant's characterization of the letter as "retaliatory", is not evidence enough to persuade me that this application is solely about a claim of oppression, which would remove from the jurisdiction of this Tribunal. As noted above, there are allegations related to compliance with the governing documents that may fall within the Tribunal's jurisdiction.
- [9] It would also be premature to dismiss this application on the grounds that it cannot succeed because, as the Respondent claims, it has acted reasonably in sending the letter and that the Applicant's breach of the rule is 'evident.' This is only something that can be determined by hearing evidence and arguments; it requires the case to be heard on its merits.
- [10] Moreover, I am not convinced by the Respondent's submissions that this application should be dismissed because it is vexatious and/or filed for an improper purpose. While the Applicant may have brought other applications before this Tribunal and the courts, there is no evidence before me that demonstrates that this application seeks to 'roll over' similar issues or is for any purpose other than to assert legitimate rights. The two previous cases between the parties that came before the Tribunal are about records, not compliance issues. While the Applicant does refer to the past cases between the parties as part of the context for this dispute, the compliance letter sent to the Applicant from the Respondent specifically references her initiation of legal proceedings as conduct that breaches the Harassment Rule. Thus, it is not surprising that the Applicant raises the previous legal proceedings between the parties as part of her application. I do not find this to be evidence that the Applicant filed this application for an improper purpose.
- [11] Finally, the Respondent requests that the Applicant be deemed a vexatious litigant under the Tribunal's Rule 4.6 which states:

If the CAT finds that a Party has filed a vexatious Application or has participated in a CAT Case in a vexatious manner, the CAT can dismiss the proceeding as an abuse of the CAT's process. The CAT may also require that Party to obtain permission from the CAT to file any future Cases or continue to participate in an active Case. The CAT may also require a Party to agree to an undertaking that they will comply with the Rules and with any CAT Orders.

- [12] The Respondent argues that the Applicant's conduct displays the hallmarks of a vexatious litigant including remaining self-represented despite pleas to obtain legal representation, persistently amplifying disputes, presenting written submissions that are largely irrelevant and rolling forward grounds and issues from other proceedings.
- [13] As the Respondent notes, relief under Rule 4.6 is exceptional. This is because declaring a person to be a vexatious litigant is a serious and consequential action, which results in barring access to the Tribunal without leave. As a result, the threshold for making such a declaration is intentionally set high. The mere assertion that "without the intervention of Rule 4.6 the Applicant's behavior will likely escalate" is not sufficient to prompt an order under Rule 4.6. In this case, it was the Respondent's own action of sending the letter to the Applicant that prompted the application, and the Applicant has a legitimate right to challenge the reasonableness of enforcement actions as they may relate to provisions that fall under the Tribunal's jurisdiction.
- [14] The Respondent has not provided any evidence that the Applicant has repeatedly attempted to re-litigate matters already determined by this Tribunal; filed numerous cases without the prospect of success (out of the two previous cases between the parties – one was dismissed but the Applicant was partially successful in the other); disregarded Tribunal orders or rules, or persistently amplified disputes. There may be animosity between the parties and longstanding disputes regarding the governance of the corporation, but this acrimony does not make the Applicant vexatious. The Respondent must demonstrate that the Applicant is abusing the Tribunal process or has participated in a Tribunal proceeding in a vexatious manner. The Respondent's request to have the Applicant deemed a vexatious litigant is denied.
- [15] In conclusion, for all reasons set out above, I decline to grant the Respondent's motion that this case be dismissed. The case may proceed.

C. ORDER

- [16] The Respondent's motion to dismiss is denied.

[17] The Respondent's request to have the Applicant deemed vexatious is denied.

Nicole Aylwin
Vice-Chair, Condominium Authority Tribunal

Released on: August 12, 2025