CONDOMINIUM AUTHORITY TRIBUNAL

DATE: September 2, 2025
CASE: 2025-00267N
Citation: Kalesoski v. Toronto Standard Condominium Corporation No. 2629, 2025 ONCAT 150

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

Member: Patricia McQuaid, Vice-Chair

The Applicant,
Anna Maria Kalesoski
Represented by Andrew Kalesoski, Paralegal

The Respondent,
Toronto Standard Condominium Corporation No. 2629

Submission Dates: August 7, 2025 to August 13, 2025

DISMISSAL ORDER

[1] The Applicant filed an application with the Tribunal on June 17, 2025 disputing a $800 chargeback issued by the Respondent following an alleged use of the Applicant's key fob contrary to the Respondent's Rules. Based on the Tribunal's initial review of the application and the provisions in the governing documents relied upon, it appeared that it was not an application within the Tribunal's jurisdiction. The Applicant was then advised to re-submit the application, which she did. On August 7, 2025, after review of the re-submitted application, the Tribunal issued a Notice of Intent to Dismiss the application (the "Notice"), highlighting that the dispute appeared to arise from the use of fobs contrary to the Respondent's Rules which does not fall within the Tribunal's jurisdiction under the *Condominium Act, 1998* (the "Act") and Ontario Regulation 179/17 ("O. Reg. 179/17").

[2] The Applicant provided submissions in response to the Notice, explaining why the application should be permitted to proceed. After careful consideration of the submissions, I have determined that the issues raised in the application are not within the Tribunal's jurisdiction. My reasons are as follows.

[3] The application was precipitated by events that occurred in March 2025 when a

non-resident used the Applicant's fob to gain entry to the building contrary to the Rule 3(c) which states: "Under no circumstances shall building access or common element keys or other electronic devices be made available to anyone other than an Owner or occupant". In addition, Rule 3(d) states that no visitor may use or have access to the common elements and facilities unless accompanied by an owner or occupant. When confronted by the alleged noncompliance with these Rules, a verbal exchange with the Respondent's staff ensued which led to the Respondent allegating that the Applicant's conduct and that of her friend constituted workplace harassment. The Respondent's legal counsel sent a compliance letter to the Applicant dated April 1, 2025, citing the rules related to the fob and requested indemnification of $800 pursuant to provisions in the declaration.

[4] In submissions, the Applicant asserts that Rules 3(c) and (d) "… dictate who may access parking/storage and on what terms. The access FOB is a dual-use key, and there is no separate key to access/parking/storage. Barring or limiting its use is, in substance, governing parking/storage."

[5] I do not accept that argument. The Tribunal's jurisdiction is limited by what is set out in the Act and O. Reg. 179/17. In the latter, in s. 1 (1) (d) (iii), the Tribunal has been given jurisdiction over a dispute with respect to "provisions that prohibit, restrict or otherwise govern the parking or storage of items in a unit, … or the common elements … that is intended for parking or storage purposes". The rules in question are not about parking or storage, in substance or otherwise.

[6] As stated in submissions, the Applicant seeks to challenge the reasonableness of Rules 3(c) and (d), their enforcement and the indemnification charges flowing from that enforcement action. Recourse for that relief is not before the Tribunal. The rules in question relate to or restrict access to the building (which was the issue in March based on the materials filed by the Applicant). The fact that the fob may also grant access to parking or storage areas does not make this about a provision that governs parking/storage of items in areas intended for parking or storage purposes. These rules are in substance about building security; this is not a matter of semantic labelling as suggested by the Applicant.

[7] I note that the Applicant has cited several cases to the Tribunal in support of the position that the application ought to be accepted in order that access to justice not be adversely impacted. One of the cases cited was *Rahman v. Peel Standard Condominium Corporation No. 779,* 2021 ONCAT 1 ("Rahman")[1]. In Rahman, the dispute was definitively about a parking provision – Mr. Rahman's entitlement to use the outdoor accessible parking spaces. The dispute was about a provision squarely within the Tribunal's jurisdiction. That there were allegations of harassment that may have fallen under s. 117 (1) of the Act (over which the Tribunal has no jurisdiction) did not deprive the Tribunal of jurisdiction over the underlying parking dispute. Here, the underlying dispute is about provisions related to building access, which do not fall within the Tribunal's jurisdiction as set out in O. Reg. 179/17. It is not a question of whether the Tribunal can 'retain' jurisdiction – here, there is no jurisdiction at first instance.

[8] Flowing from this, and pursuant to s. 1 (1) (d) (iv) of O. Reg. 179/17, a dispute about indemnification in respect of a provision that govern building access and security is not a dispute over which the Tribunal has jurisdiction.

[9] Despite this, the Applicant urges that the Tribunal take a broad and expansive approach in interpreting the statutory provision of s. 1 (1) (d) (iii) of O. Reg. 179/17 because to do otherwise would trigger harmful systemic effects and would allow conflict between the parties to fester and grow. This argument, in the context of this dispute as described by the Applicant, sidesteps the very important fact that the Tribunal has not been given overarching jurisdiction over the many disputes that can and unfortunately do arise in a condominium community; the text and context of the provisions granting jurisdiction in the Act and O. Reg. 179/17 must be adhered to and interpreted in a way that gives effect to their ordinary meaning. An application which tries to 'shoehorn' a dispute because it may be expedient for a party, whether the condominium corporation or an owner, when the dispute, on its face, is not within the Tribunal's jurisdiction, will not be accepted.

[10] In making the above argument, the Applicant cited the Court's decision in *TSCC 1630 v. Vallik,* 2021 ONSC 5570 (CanLII) ("Vallik") stating that it confirms that "compliance issues primarily belong in statutory ADR processes, precisely what CAT was set up for." It is correct that in Vallik, the Court does state at paragraph 6 that:

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[1] The Applicant also cited the Divisional Court decision, *Peel Standard Condominium Corp. No. 779 v Rahman*, 2023 ONSC 3758 (CanLII), in which the Tribunal's decision was upheld.

> It is the law and public policy of the Province of Ontario that regular disputes about compliance issues between condominium owners and the condominium corporation be resolved out of court.

However, the context for the Court's statements is important. In Vallik, the Court was addressing s. 132 and 134 of the Act, which state that in specific circumstances where specific agreements exist, mediation and arbitration processes (not CAT processes) are deemed to be required. The Court's conclusions must be read in that context and are not applicable here. The statutory scheme which governs this Tribunal was not before the Court.

ORDER

[11] The Tribunal orders that the application be dismissed.

Patricia McQuaid
Vice-Chair, Condominium Authority Tribunal

Released on: September 2, 2025