

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 16, 2025

CASE: 2025-00463N

Citation: Akash v. York Condominium Corporation No. 78, 2025 ONCAT 177

Order under Rule 19 of the Condominium Authority Tribunal's Rules of Practice

Member: Mary Ann Spencer, Member

The Applicant,

Ahmed Akash

Self-Represented

The Respondent,

York Condominium Corporation No. 78

Represented by Michael Spears, Counsel

Submission Dates: September 10, 2025, to September 25, 2025

DISMISSAL ORDER

- [1] Ahmed Akash, the owner of a unit of York Condominium Corporation No. 78 ("YCC 78" or "the corporation"), submitted an application to the Tribunal alleging that the harassment-related rules adopted by the corporation in April 2023 were invalid and unenforceable and therefore the enforcement actions the corporation has taken against him were also invalid. The application states he is seeking "an administrative penalty under Section 1.44 (1) of the Condominium Act, 1998, for repeated and knowing contraventions of Section 58, and for enforcement action that constitutes harassment within the meaning of Section 117."
- [2] The Stage 3 – Tribunal Decision hearing in this matter began on August 27, 2025. As part of the issue confirmation process, the parties agreed that the issues to be decided are:
1. Whether and when the corporation's harassment rules were adopted in accordance with the requirements of *the Condominium Act*, 1998 (the "Act").

2. Whether the corporation's enforcement of the rules was in accordance with the requirements of section 119 (3) of the Act. If it is found they were not, what remedy, if any, should the Tribunal order?
3. Whether the Tribunal should order costs and/or compensation for damages in this matter.

[3] Section 119 (3) of the Act states that a corporation has the right to require a person to comply with the Act and the declaration, by-laws, and rules of a corporation. Counsel for the Respondent advised YCC 78's harassment-related rules formed part of the corporation's policy against harassment and workplace violence which its Board passed in April 2023. He further advised that because of ongoing breaches of the Act and the policy, YCC 78's Board decided to "pass the policy as rules of the corporation." The rules became effective on August 15, 2025. Mr. Akash's position is that the corporation's enforcement actions are invalid because they relied on "unratified" rules. He confirmed that the actions at issue include "chargebacks, lien activities, communications to TD Bank, and refusals to accept payment when relying on Rules 1–3."

[4] Rule 1 of the Harassment Rules states:

No owner, resident, or other person shall act in a manner that is deemed by the Board of Directors (the "Board") or property management to be unmanageable, rude, disruptive, aggressive, abusive, threatening, bullying, discriminatory, defamatory, or harassing in nature towards any board member, manager or management employee, employees, agents, invitees, suppliers, or contractors of the Corporation or property management, and/or towards any owners, tenants, residents or other occupants, and/or towards their agents, guests, and invitees.

[5] Rule 3 is an indemnification rule which states that all costs incurred by the corporation as a result of a breach of the harassment-related rules are the responsibility of the owner and may be added to the common expenses of their unit.

[6] As a preliminary matter, counsel for the Respondent indicated that he would be seeking the Respondent's instructions to request a stay of this matter because of a concurrent matter filed with the court. The Respondent subsequently brought this motion to dismiss this matter on the basis that the application was brought for an improper and vexatious purpose, or, in the alternative, that it be stayed pending the outcome of the application filed by YCC 78 in the Superior Court of Justice "so as to avoid inconsistent or conflicting findings from a multiplicity of proceedings."

[7] Rule 19 of the Tribunal's Rules of Practice dated January 1, 2022, states that the Tribunal may dismiss a case at any time in certain situations, including:

- a) Where a case is about issues that are so minor that it would be unfair to make the Respondent(s) go through the CAT process to respond to the applicant(s)'s concerns;
- 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 the CAT for an improper purpose (e.g., filing vexatious Applications).

[8] The Respondent's motion submission included a copy of its August 5, 2025, application to the Superior Court of Justice in which it seeks a number of compliance orders and an oppression remedy. I note that the application to the court was filed after Mr. Akash filed his application with the Tribunal and that a hearing date has yet to be set.

[9] The supporting documents submitted with the Respondent's motion submission include a compliance letter dated March 27, 2025 sent by YCC 78's counsel to Mr. Akash entitled "Breach of Section 117 of the Condominium Act (the "Act") and the Corporation's Harassment Rules (the "Rules"). The letter sets out four instances of notices and e-mails sent by Mr. Akash and details with respect to "defamatory and abusive accusations" against the corporation's directors contained in them. The letter then quotes subsection 117 (1) of the Act:

The Ontario courts have held that such Breaches, when made against condominium directors, can cause serious psychological harm, contrary to Section 117 of the *Act* which provides, under the title, "**Prohibited conditions and activities**":

"No person shall, through an act or omission, cause a condition to exist or an activity to take place in a unit, the common elements or the assets, if any, of the corporation if the condition or the activity**is likely to cause an injury or an illness to an individual.**"

In addition to section 117 of the *Act*, to fully address your Breaches, reference must also be made to the Corporation's Rules Regarding Violence, Discrimination and Harassment, (the "Harassment Rules") which came into effect last year.

[10] Section 1.36 (4) (a) of the Act states that applications may not be made to the Tribunal with respect to certain disputes. Those include disputes with respect to section 117 (1) of the Act. The Tribunal's jurisdiction is established in Ontario Regulation 179/17 ("O. Reg. 179/17). Unlike disputes relating to parking and pets, for example, there is no specific provision providing jurisdiction to hear disputes related to harassment. However, in certain circumstances, the Tribunal may consider these. Section 1. (1) (d) (iii.2) of O. Reg. 179/17 establishes the Tribunal's jurisdiction with respect to disputes relating to:

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.

However, section 1. (3) of O. Reg. 179/17 states that the Tribunal may not hear matters relating to section 1. (1) (d) (iii.2) if the dispute is also with respect to section 117 (1) of the Act.

[11] The subject and the content of the March 27, 2025 compliance letter raised the fundamental question of the Tribunal's jurisdiction to hear this matter. Therefore, I asked both parties for their comments on this question.

[12] Mr. Akash submitted that the Tribunal has jurisdiction under section 1. (1) (d) (iii.2) of O. Reg. 179/17. His position is that the corporation's enforcement actions are invalid because the corporation failed to provide the notice to owners required by section 58.6 of the Act when it enacted the "Rules Regarding Violence, Discrimination and Harassment" on April 24, 2023. He submitted that "the operative enforcement mechanisms are Rule #1 (defining abusive/defamatory conduct) and Rule #3 (recovering legal costs as common expenses). This confirms that the dispute pertains to the rules, not the statute itself."

[13] Counsel for the Respondent submitted that, in accordance with section 1. (3) of O. Reg. 179/17, the Tribunal does not have jurisdiction to hear this matter, noting that the compliance letters sent to Mr. Akash clearly state the corporation's "statutory duty to enforce section 117 to prohibit conduct "likely to cause an injury" to directors, staff, or others on the property."

[14] Mr. Akash provided additional documents in response to my request for comments on the Tribunal's jurisdiction. These included a compliance letter dated March 14, 2024 sent by counsel for the Respondent which was not among the documents included with counsel's motion submission. The March 14, 2024 letter indicates it was sent in response to a notice to owners Mr. Akash sent before the corporation's

Annual General Meeting in which he was running for election as a director. The letter sets out a list of what it describes as defamatory statements about the corporation's board members which include, among others, allegations of illegal activity. The letter demands that Mr. Akash send a retraction. It then states:

However, in addressing the Defamatory Statements, reference must also be made to the Corporation's Rules Regarding Violence, Discrimination and Harassment, (the "Harassment Rules") which recently came into effect. Rule #1 prohibits any owner and/or resident from acting "in a manner that is deemed by the Board or property management to be.....abusive, threatening, bullying, discriminatory, *defamatory, or harassing in nature towards any board member*".

Given your Defamatory Statements and your clear breach of Rule #1, as referred to above, the Corporation is also considering commencing compliance proceedings pursuant to section 134 of the *Condominium Act* (the "Act"). The court application will seek a declaration that your Defamatory Statements breach Rule #1, and an order prohibiting you from defaming, whether verbally or in printed form, any Board member, past and present, as well as any member of property management staff in the future. The Corporation will look to recover all legal costs from you, in the same manner as common expenses, as provided in ss. 134(5) of the Act.

The letter then states that, pursuant to Rule 3 of the harassment-related rules, the corporation requires Mr. Akash to pay the legal fees it had incurred to date within 30 days or a lien would be placed on his unit. Mr. Akash submitted a letter to the TD Bank dated May 7, 2024 which states a certificate of lien had been registered against his unit. As noted above in paragraph 2, this is one of the specific enforcement actions which he confirmed is at issue in this matter.

- [15] Unlike the compliance letter dated March 27, 2025, the March 14, 2024 letter does not specifically refer to section 117 of the Act. However, the references to section 134 of the Act set out in the text I have quoted in the preceding paragraph make it clear that the compliance letter was not sent only with respect to a breach of the harassment-related rules. Section 136 of the Act states that a corporation cannot request a compliance order under section 134 of the Act if the matter is a dispute "for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal." This implies that the notice Mr. Akash sent to owners was deemed to be a breach of section 117 (1) of the Act. That this was the corporation's intent is made clear in the March 27th letter:

The Corporation has a statutory duty to enforce the *Act* and specifically section 117, to prohibit any further conduct by you which "is likely to cause an

injury to” a Board member, property management staff or indeed any individual on the condominium property.

Once again, the Board must consider commencing compliance proceedings pursuant to section 134 of the *Condominium Act* (the “Act”). In our letter sent to you in March 2024, we advised you that such proceedings may be commenced to address defamatory statements made by you against both volunteer directors, as well as property management staff.

- [16] The compliance letters sent to Mr. Akash indicate that YCC 78’s enforcement actions were taken in respect of both the harassment-related rules and section 117 (1) of the Act. Analysis of the issues to be addressed in this matter cannot reasonably be separated from consideration of section 117 (1) of the Act. As set out above in paragraph 10, section 1. (3) of O. Reg. 179/17 states that the Tribunal may not hear matters relating to s. 1. (1) (d) (iii.2) if the dispute is also with respect to s. 117 (1) of the Act. Therefore, I dismiss this matter because the Tribunal does not have the legal authority to hear it.

COSTS

- [17] Both parties request their costs in this matter. Mr. Akash requests reimbursement of his Tribunal fees on the basis that he filed his application “in reliance on the Tribunal’s jurisdiction.” The corporation requests its legal fees on a full indemnity basis, submitting that Mr. Akash filed his application for an improper purpose and that his conduct during this proceeding was unreasonable.

- [18] The award of costs is discretionary. Section 1.44 (2) of the Act states that an order for costs shall be made in accordance with the rules of the Tribunal. The cost related rules of the Tribunal’s Rules of Practice include:

48.1 If a Case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final decision, the unsuccessful Party will be required to pay the successful Party’s CAT fees unless the CAT member decides otherwise.

48.2 The CAT generally will not order one Party to reimburse another Party for legal fees or disbursements (“costs”) incurred in the course of the proceeding. However, where appropriate, the CAT may order a Party to pay to another Party all or part of their costs, including costs that were directly related to a Party’s behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense.

- [19] With respect to Mr. Akash’s request for reimbursement of his Tribunal fees, there was no successful party in this matter as I am dismissing it before hearing

evidence. And, the fact that the Tribunal accepted his application does not mean that jurisdictional questions could not arise as the matter proceeded. Therefore, I am denying Mr. Akash's request for reimbursement of his Tribunal fees.

[20] Counsel for the Respondent submitted that Mr. Akash's application to the Tribunal was made not to resolve a genuine dispute but to "attack the corporation's governance." In this regard, he referred to two previous records-related cases Mr. Akash has filed with the Tribunal in which the Tribunal found Mr. Akash inappropriately focused on governance-related matters. He noted that the Tribunal dismissed the most recent case, finding that the application was filed for an improper purpose.¹ Counsel also cited Mr. Akash's conduct during this proceeding, submitting that he made "repetitive, lengthy, and irrelevant submissions" causing unnecessary delay and expense. He also noted that this matter mirrors the issues before the Superior Court of Justice.

[21] I am dismissing this matter on the basis that the Tribunal does not have legal authority to hear it, not on the merits of the Applicant's case. Mr. Akash has the right to challenge the corporation's enforcement actions. Therefore, I cannot conclude that he filed his application with the Tribunal for an improper purpose. Further, I note that the Tribunal application was filed before the corporation filed its application with the Superior Court of Justice.

[22] With respect to Mr. Akash's conduct during this proceeding, at its onset, he submitted three lengthy requests, one of which included multiple items, and none of which, other than a request to add observers to the proceeding, addressed procedural matters or were in any way related to the issues to be decided. These both delayed the proceeding and caused the Tribunal to expend additional time. However, while counsel chose to respond to these, he was not required to. The balance of Mr. Akash's conduct was not unreasonable; his messages and submissions were generally focused on the questions to be addressed in this matter. Therefore, I find no reason to award legal fees.

ORDER

[23] The Tribunal orders the application dismissed without costs.

Mary Ann Spencer

¹ *Akash v. York Condominium Corporation No. 78*, 2025 ONCAT 59

Member, Condominium Authority Tribunal

Released on: October 16, 2025