

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: November 7, 2025

CASE: 2025-00442R

Citation: Smith v. Peterborough Condominium Corporation No. 38, 2025 ONCAT 187

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

Member: Ian Darling, Chair

The Applicant,

Robert Smith,
Self Represented

The Respondent,

Peterborough Condominium Corporation No. 38
Represented by Paige Ivory, Agent.

Hearing: Written Online Hearing – August 8, 2025, to October 22, 2025

REASONS FOR DECISION

- [1] The Applicant, Robert Smith, submitted a records request to Peterborough Condominium Corporation No. 38 (the “Respondent”) for logbooks related to major mechanical and electrical equipment maintenance from 2000 to the date of the request.
- [2] There is no dispute that the corporation does not have the logbook. The requirement to create and maintain it was set out in in contracts between the condominium management company and the Respondent. The Applicant stated that this case was brought to prove that the logbook did not exist. During the proceedings, the Respondent confirmed that they are using an online tool to maintain service requests, but not in the form of the “logbook” as stipulated in the management agreement.
- [3] The parties dealt with a similar issue in a prior case (2023-00217R), where a different logbook was requested. In that case it was confirmed that the logbook did not exist. In their submissions, the Respondent identified that the settlement agreement of September 15, 2023, included a term requiring the corporation

confirm that the logbook was not maintained. Submissions also confirm that the new online tool was implemented following the prior case which identified concerns with logbooks more generally.

- [4] The Summary, produced at the end of Stage 2 – Mediation proposed two issues to be decided:
 - 1. Is the Applicant entitled to receive the requested record?
 - 2. Should the Respondent be required to pay a penalty under s.1.44 (1)6 of the *Condominium Act, 1998* (the ‘Act’), for a refusal to provide the Applicant with the records requested without reasonable excuse, and if so, in what amount?
- [5] After reviewing and confirming the issues, I added another issue - has the Applicant filed this case for an improper purpose? I introduced this question because it was already established that the record does not exist, and it appears that this application is intended to prove that the Respondent's condominium manager is not meeting contractual requirements - rather than the dispute relating to the corporation's responsibilities to maintain records under the Act.
- [6] After considering the submissions from the parties, I conclude that the case should be dismissed because the Applicant has filed this case for an improper purpose.
- [7] The Applicant stated that the purpose of the request was to confirm whether the condominium management provider was maintaining the logbook. This is not related to the requirements under Section 55 of the Act to create and maintain records. It is an attempt to demonstrate perceived shortcomings of the condominium manager. It was clear from the corporation's response form that the record did not exist. The response form also confirmed that this was similar to the situation two years ago. Bringing the case to the Tribunal to “prove” that a record does not exist where there is no dispute over this fact is an improper purpose.
- [8] The Applicant is using the Tribunal to pursue concerns with the condominium manager. The Applicant's argument is that the manager is not meeting their responsibilities. The Applicant was aware throughout the process that the logbook did not exist. The Applicant stated that he was “aware (that the) CAT does not have jurisdiction to deal with governance or management issues and those will be dealt with otherwise if necessary.” Nonetheless, the Applicant advanced the case to Stage 3 – Tribunal Decision.
- [9] The prior settlement agreement for 2023-00217R addressed the consequence of the corporation failing to maintain the logbooks, and subsequent action ensured

that the logbook would be maintained. Filing a new case based on essentially the same issues. The applicant is rolling over grounds and issues raised in a prior, unsuccessful CAT cases and repeatedly incorporating them. This is an improper purpose, that can also be considered as part of an assessment of vexatious conduct.

- [10] At the point of writing this decision, the Applicant has commenced 12 other records-related applications with the Tribunal, five of which have resulted in decisions. These decisions have encouraged a more productive approach to resolving their issues. I echo this. I also want to state plainly. The Tribunal is not to be used to “prove” points, to “get things on the record” or find out about “how the corporation is doing its work”. The records jurisdiction of the Tribunal relates to records disputes, not how the corporation operates, or to evaluate performance.

A. COSTS

- [11] The Applicant requested a reimbursement of the Tribunal fees, a penalty and costs. There is no basis to award any of these. The Applicant was unsuccessful, so there is no basis for an award of the Tribunal fees or other costs, nor is there any basis to award a penalty.

- [12] The Respondent did not request any costs.

B. CONCLUSION

- [13] The Applicant should also consider this decision a warning regarding the improper use of the Tribunal. The Tribunal’s Rules of Practice allow it to prevent the abuse of its process (see Rule 4.6) and allow it to dismiss cases at any time under certain circumstances, such as those where the Tribunal has no jurisdiction. Repeated attempts to use the Tribunal for improper purposes may result in the Tribunal taking steps to limit access to the Tribunal and or orders of costs.

C. ORDER

- [14] The Tribunal Orders the application dismissed.

Chair, Condominium Authority Tribunal

Released on: November 7, 2025