

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 24, 2026

CASE: 2025-00968N

Citation: Gakman v. Toronto Standard Condominium Corporation No. 1957, 2026 ONCAT 33

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

Member: Nicole Aylwin, Vice-Chair

The Applicant,

Sima Gakman

Self-Represented

The Respondent,

Toronto Standard Condominium Corporation No. 1957

The Intervenors,

Ingeborg Jenkins

Brian Fong

Submission Dates: January 19, 2026 to January 28, 2026

MOTION ORDER

- [1] Sima Gakman submitted an application to the Condominium Authority Tribunal (the "Tribunal" or the "CAT") alleging that vibration and noise from heat pumps in a neighbouring unit is substantially interfering with her quiet enjoyment of her unit. She submits that the Respondent, Toronto Standard Condominium Corporation No. 1957 ("TSCC 1957") has failed to enforce its governing documents and the *Condominium Act, 1998* (the "Act") by allowing the noise and vibration to continue.
- [2] On receipt of the application, the CAT issued a Notice of Intent to Dismiss (the "Notice") the case under Rule 19.1 of the Tribunal's Rules of Practice. It appeared that the application was about noise and vibration that resulted from repair and maintenance issues. Repair and maintenance issues fall under s. 89–92 of the Act. These sections of the Act do not fall under the Tribunal's jurisdiction as set out in Ontario Regulation 179/17 ("O. Reg. 179/17"). Tribunal has no legal authority to

hear disputes that fall under s. 89–92 of the Act.

- [3] Having concluded the motion process, I have decided not to dismiss the application. I allow the case to proceed, with a caution to the Applicant about the parties in the case.
- [4] According to the submission of the Applicant, TSCC 1957’s Rule 2 (b) prohibits transfer of noise from one unit to another, including any “sound from an instrument or other device ...”
- [5] It also appears, based on the application and submissions of the Applicant, that the heat pumps in question may be not common elements but owned by individual unit owners, who are responsible for their replacement and repair. If this is the case, this may not be an issue that falls under s. 89–92 of the Act.
- [6] Based on the above, I find it would be premature to dismiss this application at this early stage, and I will allow the case to proceed. However, I advise the Applicant that the Tribunal cannot hear or decide disputes that are outside of its jurisdiction and the parties may be required to further address the question of jurisdiction as the case proceeds.
- [7] I further note that based on the Applicant’s submissions, it appears that the correct parties may not be named in this case. Although the Applicant’s allegations are that the owners of two different units are allowing the creation of unreasonable noise and vibration via their heat pumps, the owners of the units alleged to be causing/allowing the noise and vibration nuisance do not appear to be named as parties. Currently the intervenors are listed as Brian Fong—a non-owner occupant of one of the units and Ingeborg Jenkins who is listed as the owner of the other unit. However, in her submissions Eric (not Brian) Fong is referred to as an Intervenor, and “Ms. Yeung” is named as the owner of a unit (not Ms. Jenkins). The Applicant is responsible for naming the correct parties in this case. She is advised that the case may not proceed if the correct parties are not named. Before being approved and within 14 days of the date of this order the Applicant must clarify or correct with Tribunal staff the parties she wishes to name in this case. If she does not, the application may not be allowed proceed.

ORDER

- [8] The case may proceed on its merits. However, before being approved and within 14 days of the date of this order the Applicant must clarify or correct with Tribunal staff the parties she wishes to name in this case. If she does not, the application

may not be allowed to proceed.

Nicole Aylwin
Vice-Chair, Condominium Authority Tribunal

Released on: February 24, 2026