

COURT OF APPEAL FOR ONTARIO

CITATION: Metropolitan Toronto Condominium Corporation No. 1328 v. 2145401  
Ontario Inc., 2019 ONCA 944  
DATE: 20191129  
DOCKET: C66753

Watt, Hourigan and Trotter JJ.A.

BETWEEN

Metropolitan Toronto Condominium Corporation No. 1328

Applicant  
(Respondent in Appeal)

and

2145401 Ontario Inc. and Paul Starkman

Respondents  
(Appellants)

Benjamin Salsberg, for the appellants

Spencer Toole, for the respondent

Heard and released orally: November 26, 2019

On appeal from the judgment of Justice Kimmel of the Superior Court of Justice,  
dated February 20, 2019.

REASONS FOR DECISION

[1] The facts underlying this appeal may be briefly stated. After a complaint about noise emanating from the staircase in the appellant's condominium unit, the respondent, Metropolitan Toronto Condominium Corporation, requested entry into the unit to investigate. The appellant denied entry and issued a trespass notice. Consequently, the respondent brought an application for an order to enter

and inspect the staircase. The application was granted. The appellant appeals that decision.

[2] In their factum, the appellants have raised seven grounds of appeal which were not pursued in any meaningful way during oral argument. We need not refer to these arguments in any detail. In our view, they were all wholly without merit.

[3] At the hearing, the grounds of appeal were narrowed considerably to one principal argument. The appellants submit that there was no evidentiary basis to determine whether the condominium board had a reasonable basis for carrying out an inspection.

[4] We do not give effect to that argument. The record established that there was a complaint by another owner. The respondent has a right and duty under s. 17(3) and 119(3) of the *Condominium Act*, 1998, S.O. 1998, c. 19 to ensure that the owner and occupier of a unit comply with the legislation. This includes that the unit is not being used in a manner that will affect the structural integrity of the appurtenant common elements. In discharging that duty, the respondent is entitled to inspect the unit to gather information about the nature and extent of a suspected problem.

[5] The appeal is dismissed, with costs to the respondent in the amount of \$4,045.92.

“David Watt J.A.”  
“C.W. Hourigan J.A.”  
“G.T. Trotter J.A.”