



- [2] The Respondent did not file any responding material and did not appear at the hearing of this appeal.

**Court's Jurisdiction:**

- [3] Under section 1.46(2) of the [Condominium Act, 1998, S.O. 1998, c. 19](#), a party to a case at the CAT can appeal a decision or order issued by the CAT to the Divisional Court on a question of law.

**Standard of Review:**

- [4] As this appeal may be brought on a question of law only, the standard of review is correctness pursuant to [Canada \(Minister of Citizenship and Immigration\) v. Vavilov](#), 2019 SCC 65.
- [5] Rule 45 of the Condominium Authority Tribunal Rules of Practice provides:

45. Recovery of Fees and Expenses

45.1 The CAT may order a User to pay to another User or the CAT any reasonable expenses or other costs related to the use of the CAT, including:

- (a) any fees paid to the CAT by the other User;
- (b) another User's expenses or other costs that were directly related to this other User's participation in the Case; and,
- (c) costs that were directly related to a User's behaviour during the Case that was unreasonable, for an improper purpose, or that caused an unreasonable delay.

45.2 If a Case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final Decision, the unsuccessful User will be required to pay the successful User's CAT fees and reasonable dispute-related expenses, unless the CAT member decides otherwise. This does not include legal fees.

45.3 A User who fails to pay any amounts ordered to be paid to the CAT may not file a new Application until all outstanding amounts have been paid.

46. Legal Fees Generally Not Recoverable

46.1 The CAT will not order a User to pay to another User any fees charged by that User's lawyer or paralegal, unless there are exceptional reasons to do so.

- [6] The Appellant concedes that costs are highly discretionary and that the costs decision is entitled to significant deference on appeal. Nevertheless, it is submitted that CAT erred by failing to consider relevant factors in making an award of costs against the successful party.
- [7] The novelty and reasonableness of bringing the claim may be relevant factors which would have supported no costs being awarded against the Respondent, the unsuccessful party, but are not relevant factors in support of an award of costs against the successful party, the Appellant. In the absence of a finding of bad faith or misconduct, it was an error of law to award costs against the Appellant.
- [8] Accordingly, the appeal is allowed and the costs order is set aside.
- [9] As no costs are sought of the appeal, none are awarded.

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Heeney J.

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Backhouse J.

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Gibson J.

**Released:** March 8, 2022

**CITATION:** Halton Standard Condominium Corp. No.617 v. Roberts, 2022 ONSC 1477  
**DIVISIONAL COURT FILE NO.:** 21-0025  
**DATE:** 20220308

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**DIVISIONAL COURT**  
**Heeney, Backhouse, Gibson JJ.**

**BETWEEN:**

**Halton Standard Condominium Corp. No.617**

**Appellant**

**– and –**

**Linda Roberts**

**Respondent**

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**REASONS FOR JUDGMENT**

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**Released:** March 8, 2022