CITATION: Peel Standard Condominium Corp. No. 779 v. Rahman, 2023 ONSC 3758
DIVISIONAL COURT FILE NO.: DC-21-11
DATE: 20230626

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

D.L. Corbett, Fitzpatrick and Hebner JJ.

BETWEEN:	
PEEL STANDARD CONDOMINIUM CORPORATION NO. 779	*Antoni Casalinuovo* and *Victor Yee*, for the Appellant
Appellant	
– **and** –	
AQIB RAHMAN and CONDOMINIUM AUTHORITY OF ONTARIO - CONDOMINIUM AUTHORITY TRIBUNAL	*Mr Rahman*, self-represented *Luisa Ritacca and Olivia Eng*, For the Tribunal
Respondents	
	HEARD: in Brampton, by ZOOM: June 1, 2023

REASONS FOR DECISION

D.L. Corbett J.

[1] The appellant appeals from the decision of Member Laurie Sanford of the Condominium Authority Tribunal (the "Tribunal") dated February 16, 2021, finding that the respondent, Mr Rahman, is entitled to park in designated accessible parking spaces located outside the appellant's building, and awarding ancillary relief (2021 ONCAT 13).

[2] The appellant raises the following issues on appeal:

a. Whether the Tribunal "exceeded the scope of its jurisdiction" adjudicating this dispute;

b. Whether the Tribunal erred in failing to dismiss this proceeding as an abuse of process due to the multiplicity of proceedings commenced by Mr Rahman;

c. Whether the Tribunal erred by awarding $1,500 in "mental distress damages" to Mr Rahman;

d. Whether the Tribunal erred in "improperly reversing the legal onus that was on Mr Rahman to prove that the chargeback levied against him was unlawful" and thereby failing to follow binding precedent from this court;

e. Whether the Tribunal erred in failing to follow this court's decision in *Amlani* v. *York Condominium Corporation No. 473*, 2020 ONSC 5090;

f. Whether the appellant was denied procedural fairness because of a reasonable apprehension of bias on the part of the Tribunal, or as a result of inadequate or incorrect reasons by the Tribunal on the appellant's recusal motion.

[3] The substantive issue before the Tribunal was focused. Mr Rahman has a permit from the Ontario Ministry of Transportation entitling him to use parking spaces designated for disabled persons. The appellant has such designated spaces outside its building, and Mr Rahman had been parking in those spaces. The appellant has taken the position that Mr Rahman is not entitled to park in these spaces because he has two parking spaces associated with his condominium unit in the building's underground parking and that he was required to use those parking spaces unless Mr Rahman satisfies the appellant that he needs to use the outdoor accessible parking rather than his assigned underground parking spaces.

[4] Mr Rahman, for his part takes the position that he does not have to establish his need for accessible parking to the satisfaction of the appellant, given that he has a permit from the Ministry of Transportation. The underground parking does not meet *Building Code* requirements for accessible parking and is not designated as such. The appellant's Declaration does not preclude Mr Rahman from parking in designated accessible parking in front of the building, and he takes the position that he is entitled to do so without providing evidence of his needs to the appellant.

The Decision Below

[5] The jurisdiction issue was decided first, by Vice-Chair Clifton, on January 12, 2021 (2021 ONCAT 1). The appellant argued that the parking issue was connected to issues of harassment by Mr Rahman of staff and others associated with the appellant, and so had to be decided within this broader context. These broader issues, the appellant argued, fell within the jurisdictional "carve-out" in s. 117 of the *Condominium Act, 1998*, SO 1998, c. 19. The Vice-Chair did not accept this argument and held that the parking dispute was within the jurisdiction of the Tribunal.

[6] Vice-Chair Clifton was expected to hear the balance of the proceeding below, but after his ruling on jurisdiction, and before resumption of the hearing, the appellant moved for recusal of the Vice-Chair for reasonable apprehension of bias. Rather than adjudicate this recusal issue, the Vice-Chair concluded that it would be in the best interests of the parties and the Tribunal to just get on with the matter before a different Tribunal member, and thus the balance of the matter was heard and decided by Member Sanford.

[7] Member Sanford found as follows (in brief, in my words):

a. Mr Rahman has a parking permit issued by the Ministry of Transportation entitling him to park in designated parking spaces.

b. Mr Rahman has two underground parking spaces in which he may park, which are associated with his condominium unit.

c. Mr Rahman's underground parking spaces are not designated as accessible parking.

d. The outdoor designated parking spots are not reserved for "visitors" to the building and are available for use by residents of the building entitled to park in designated accessible parking.

e. The appellant is not entitled to inquire into whether Mr Rahman is entitled to park in designated accessible parking. This entitlement is established by the Ministry of Transportation and is not subject to review by the appellant.

f. Given all of these findings, Mr Rahman was entitled to park in the outdoor accessible parking, the Condominium's Declaration does not preclude his doing this, and thus the appellant was not correct in taking action against Mr Rahman for parking in the outdoor accessible parking spaces.

g. Given that the appellant was in the wrong on the parking issue, it is not entitled to charge back its enforcement costs on the parking issue to Mr Rahman.

h. The appellant's conduct pursuing enforcement of the parking issue was such that Mr Rahman should be awarded damages of $1,500 from the appellant.

[8] As should be evident from this summary, the underlying dispute is minor and straightforward. It is precisely the sort of conflict that the Tribunal was established to decide. The parties should have had early recourse to the Tribunal, once it was evident that they disagreed and neither side would back down. Instead, both sides have engaged in conflict escalation, out of all proportion to the underlying parking issue.

Summary and Disposition

[9] The appellant did not seek to have the jurisdictional decision set aside below for reasonable apprehension of bias and may not pursue that issue for the first time before this court. In any event, the issue of jurisdiction was decided correctly by the Tribunal. This sort of minor parking dispute is precisely the sort of issue that is reserved for the Tribunal to decide, and the interests of all parties and the administration of justice are best served by a fast and inexpensive process before the Tribunal rather than proceedings before the Superior Court of Justice. The parking issue is not so intertwined with the harassment issues so as to require that it be heard and decided in the same proceeding where the harassment issues are heard and decided.

[10] I see no basis for staying or dismissing Mr Rahman's parking claims on the basis of abuse of process. The Tribunal has exclusive jurisdiction over the parking issue. It may be that other proceedings initiated by Mr Rahman constitute an abuse of process – bringing multiple

proceedings in multiple courts or tribunals can be an abuse of process. However, even if it were found that Mr Rahman has been engaging in abuse of process, this would not disentitle him to a decision on the merits in a proceeding before a court or tribunal with jurisdiction. In this instance, the proper venue for a decision on the merits was the Tribunal, and it was no abuse of process to pursue these issues there.

[11] On the merits, I see no error of law in the Tribunal's conclusions that (a) Mr Rahman is entitled to park in designated accessible parking, (b) there is no such parking underground, and (c) the Condominium's Declaration does not restrict access to outdoor accessible parking to "Visitors". I agree with the Tribunal that these findings preclude the appellant from charging back its enforcement costs related to these issues to Mr Rahman. I see no legal error or procedural unfairness in the Tribunal's conclusion that the appellant's conduct in respect to this issue has been such as to merit an award of damages, and the amount awarded is reasonable.

[12] Even though Mr Rahman is in the right on this parking issue, his own approach to conflict resolution has been inappropriate and has served to escalate conflict and increase costs. In the appeal before us, he began his oral submissions with allegations of fraud and dishonesty against the appellant and its counsel and continued to press these points even after having been cautioned by the court. At the end of the hearing, he indicated that he was claiming appeal costs of $35,000 a position so unreasonable as to be vexatious.

[13] In my view, the allegations of fraud and dishonesty raised in this appeal were without foundation and were improper. But for this conduct, I would have been inclined to award a modest amount in costs for Mr Rahman. I would deprive him of these modest costs as a consequence of his misconduct in raising baseless fraud and dishonesty allegations.

[14] I appreciate that Mr Rahman feels that he has been mistreated. The Tribunal agreed with this assessment and made an award accordingly. However, being mistreated by the appellant does not justify Mr Rahman mistreating the appellant and its employees and agents, nor does it justify vexatious proceedings or conduct.

Jurisdiction of this Court and Standard of Review

[15] This court has jurisdiction over this appeal pursuant to s. 1.46(2) of the *Condominium Act*, which states that "[a] party to a proceeding before the Tribunal may appeal the order to the Divisional Court on a question of law in accordance with the rules of court." On questions of law, the standard of review is correctness: *Housen* v. *Nikolaisen*, 2002 SCC 33, paras. 8-9. Issues of procedural fairness are reviewed on a correctness or "fairness" standard: *Baker* v. *Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817; *Law Society of Saskatchewan* v. *Abrametz*, 2022 SCC 29, paras. 26-30.

Issue 1: Jurisdiction

[16] The Tribunal was established in 2017 pursuant to s.1.32(1) of the *Condominium Act*. Subsections 1.36(1) and (2) of the *Act* provide that the Tribunal decide "prescribed disputes" between (among others) condominium owners and condominium corporations. Such disputes are "prescribed" by Regulation (O. Reg. 179/17). Since October 1, 2020, these prescribed disputes include disputes regarding provisions of the declaration, by-laws or rules of a condominium corporation governing pets, vehicles, parking or storage, and indemnification or compensation regarding such disputes.

[17] The *Act* directs the Tribunal to adopt "the most expeditious method of determining the questions arising in a proceeding before it" while affording procedural fairness to the "persons directly affected by the proceeding" (*Act*, s. 1.39(1); see also *Act*, ss. 1.39(2) and 1.40).

[18] Disputes that are otherwise in the jurisdiction of the Tribunal are excluded from its jurisdiction if the dispute is also connected with matters covered by s.117(1) of the *Act* [see *Act*, s.1.36(4) and Regulation, s. 1(3)]:

> 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, as the case may be, is likely to damage the property or the assets or to cause an injury or an illness to an individual.

[19] The appellant argues that s.117(1) of the *Act* is engaged for three reasons:

> (a) Mr Rahman's claims respecting parking are part of a pattern of conduct of harassment of the appellant's personnel. This harassment is the subject-matter of proceedings in the Superior Court, and the parking issues are inextricably connected with the Superior Court claims.
>
> (b) Mr Rahman claims that the appellant's conduct, including its position and conduct in relation to the parking issues, constitutes harassment of him, and for the same reasons as stated in (a), should be addressed within the Superior Court proceedings.
>
> (c) Mr Rahman has characterized his use of outdoor accessible parking as an issue involving his personal safety and well-being.

[20] For the purpose of this analysis, I accept (without finding) that allegations of harassment may fall within the s.117(1) carveout – that is – that harassing conduct may be of such a kind, nature and duration, and arise in such a context, that the harassment "is likely… to cause injury or an illness to an individual…." Whether the circumstances of these parties are such as to trigger the s.117(1) carveout is not before this court and, again, for the purposes of this analysis I accept (without finding) that the allegations of harassment – both by the appellant and by Mr Rahman –

are sufficient to trigger the carveout.[1] That, by itself, does not, however, deprive the Tribunal of jurisdiction over the underlying parking dispute.

[21] The parking dispute in this case involves assessment of largely undisputed facts – concerning the parking facilities that exist at the condominium building, the terms of the appellant's declaration and rules regarding parking, and Mr Rahman's entitlement to use designated accessible parking. None of these issues has anything to do with whether there has been harassment by the appellant, by Mr Rahman, or on both sides. It is a severable issue, within the larger ongoing disputes, and it is within the exclusive jurisdiction of the Tribunal.

[22] One of the reasons there has been so much conflict – and escalating claims – has been the delay in conflict resolution that have permitted the conflict to fester and grow. It would have benefitted both sides – and the administration of justice – to obtain a swift decision from the Tribunal on the parking issue, to lay to rest the question of where Mr Rahman may park.

[23] There is no basis for concluding that the parking issue, itself, is likely to cause damage to property or injury or illness to a person. Simply because the appellant turned out to be wrong on the parking issue does not mean it was engaging in harassing conduct: parties are entitled to be wrong. Simply because Mr Rahman prevailed on the parking issue does not mean he did not harass the appellant's personnel and agents: being in the right is not a license to act badly. The Tribunal's decision on the parking issue – upheld by this court – will be part of the context in which harassment issues may be litigated. That does not elevate the parking issues into matters "in connection with" s. 117(1). Rather, the parking issue is part of the context for the harassment issues. To hold otherwise would be to distort the carveout beyond all reasonable bounds and leave it open to any party to avoid the jurisdiction of the Tribunal by making an allegation of harassment.

[24] The Tribunal's analysis of the jurisdiction issue discloses no error of law. I would not give effect to this ground of appeal.

Issue 2: Abuse of Process

[25] Mr Rahman has commenced a proceeding before the Human Rights Tribunal, an action in the Superior Court, and multiple matters before the Tribunal. These other proceedings are not solely in respect to the parking issue, but all are connected to an over-arching allegation of harassment by the appellant, of which the allegations respecting the parking issue are alleged to be a part.

[26] As this court stated to the parties at the outset of oral argument, the conduct of the parties, towards each other and in pursuing multiple steps against each other, has been unreasonable. Both sides are to blame for this, but it appears that Mr Rahman's conduct, as a party to conflict-

[1] The question of whether – on the record – the conduct of the parties "is likely" to cause illness or injury to an individual may be left to another day – if the parties persist in their continuing escalation of their conflict. It is not necessary to decide this issue on this appeal, since the parking issue was properly decided by the Tribunal in any event.

resolution processes, has been egregious. During oral argument, Mr Rahman advised the court that he has brought, or will be bringing, legal proceedings against counsel for the appellant and against the Tribunal itself in the Superior Court. This court does not have these other proceedings before it. However, suing opposing counsel (who owes no duty to Mr Rahman), or purporting to sue an administrative tribunal (which has absolute adjudicative privilege), is a hallmark of vexatious litigation. And, even though Mr Rahman is in the right on this appeal, Mr Rahman's conduct before this court was likewise vexatious in some respects.

[27] The usual consequence of acting vexatiously may be curtailment of unfettered access to the justice system. It is not, however, denial of justice itself in respect to matters properly before a court or tribunal.

[28] In the case at bar, Mr Rahman raised an issue with the Tribunal that is within the Tribunal's exclusive jurisdiction – the parking issue. The Tribunal correctly concluded that it had jurisdiction over this claim and that it should not dismiss the claim simply because Mr Rahman was acting badly in conflict-resolution processes. Where an issue may be within the jurisdiction of more than one adjudicative body, it can be appropriate to stay or dismiss a proceeding in favour of the issue being decided elsewhere. Here, the Tribunal correctly concluded that the issue was properly before it and should be decided by it. I would not give effect to this ground of appeal.

[29] This does not mean that the parties can behave vexatiously before the Tribunal. These parties have consumed extraordinary and unacceptable Tribunal resources, and the Tribunal is entitled to control its own process to ensure that matters are pursued reasonably. In the first five months of 2023, alone, the Tribunal has issued the following decisions between these parties:

2023 ONCAT 48

2023 ONCAT 46

2023 ONCAT 37

2023 ONCAT 36

2023 ONCAT 10

2023 ONCAT 9

But this is not all Mr Rahman, by any means. Both sides have acted unreasonably before the Tribunal. It is for the Tribunal to take the steps it considers appropriate to restore order and proportionality to the parties' disputes before the Tribunal, and this broader issue is not before this court on this appeal.

Issue 3: The Damages Award

[30] The appellant argues that Mr Rahman did not plead an entitlement to damages for mental distress, and that the Tribunal denied it procedural fairness by making an award of damages under this heading. I do not agree that the appellant had no notice of this claim. I also do not agree that the award was solely in respect to damages for mental distress.

[31] In respect to this issue, the Tribunal found as follows (among other things):

> (a) "From the outset PSCC779 took an aggressive posture in enforcing compliance despite the fact that it would have been clear to a reasonable person that Mr. Rahman had, at the minimum, a *prima facie* case for his use of the accessible parking space." (Decision, para. 46)
>
> (b) "It is impossible to determine what part of the lien registered against Mr. Rahman's property or the Notice of Sale relates to claims of indemnity of enforcement costs concerning Mr. Rahman's use of the accessible parking." (Decision, para. 47)
>
> (c) "At some point in pursuing this matter, PSCC779 tipped over from aggressively pursuing its claims to harassing one of its condominium unit owners." (Decision, para. 48)

These are findings of fact, amply supported by the record, and are not subject to appeal in this court.

[32] As noted by the Tribunal, it has jurisdiction to award "indemnification or compensation" related to the parking issue. Mr Rahman had to spend hours of his time addressing multiple tickets issued by the City at the behest of the appellant, respond to unreasonable enforcement efforts by the appellant (including efforts to sell Mr Rahman's unit for failure to pay the enforcement costs demanded by the appellant), and endure a collateral attack on the legitimacy of his accessible parking pass. He did put evidence before the Tribunal that all of this caused him mental distress. The Tribunal accepted that these events caused mental distress and awarded compensation of $1500 in total for the appellant's conduct.

[33] It is apparent from the Tribunal's reasons that the compensation award was in respect to the totality of the appellant's conduct and all of its effects on Mr Rahman. It was clear on the record that Mr Rahman was seeking such an award, and in my view it would have been open to the Tribunal to make such an award even in the absence of an express request for it: part of the role of the Tribunal is to oversee the conduct of condominium corporations. The appellant mistreated Mr Rahman on the parking issue to the point that its conduct "tipp[ed] over from aggressively pursuing claims to harassing [Mr Rahman]." The award of compensation was reasonable and available in all these circumstances. I would not give effect to this ground of appeal.

Issue 4: The Chargeback Levy

[34] The appellant "charged back" to Mr Rahman its enforcement costs on the parking issue, including legal fees. It was wrong on the parking issue and should not have taken the enforcement steps that it did. The Tribunal so found and directed that the chargebacks not be collected by the appellant from Mr Rahman.

[35] This conclusion – that the appellant is not entitled to charge back enforcement costs when it has been wrong, all along, on the enforcement issue – is correct in law and surely is a matter of simple common sense. The onus to prove illegality of the chargebacks does not enter into the analysis: the error was the appellant's, and the appellant will bear its own enforcement costs. Effectively, this means that all unitholders in the appellant – other than Mr Rahman – shall share the cost of the improper enforcement steps – and unitholders may well question those responsible for the decisions taken as to why their money was wasted in this fashion. I see no error in law, or reversal of the onus of proof, in respect to this issue, and would not give effect to this ground of appeal.

Issue 5: Application of the *Amlani* Decision

[36] The Tribunal considered *Amlani* v. *York Condominium Corporation No. 473*, 2020 ONSC 5090 (Div. Ct.), and determined that it did not apply to the circumstances of this case. I agree with the Tribunal's analysis of this point. At paragraphs 44 and 45 of the Decision, the Tribunal quotes from *Amlani* as follows:

> The *Amlani* case deals with the interpretation of an indemnification clause and the operation of section 134 of the Act. However, the case does not stand for the proposition that, through deft wording of an indemnification clause, a condominium corporation can deprive an owner of his or her day in court as provided for in subsection 134(5) of the Act. In fact, the Court says, at paragraph 34,
>
> > It is one thing to allow the corporation to enforce, by way of lien, common expenses that are applicable to all unit holders and that a majority of unitholders have approved. It is entirely another to allow a condominium corporation the unfettered, unilateral right to impose whatever costs it wants on a unitholder, refer to them as common expenses and thereby acquire the right to sell the unitholder's apartment.
>
> Another way of considering the matter is to determine if PSCC779's interpretation of its indemnification clauses is reasonable. Here again, reference may be had to the *Amlani* case, where the Court wrote, at paragraph 46:
>
> > Finally, the interpretation the Corporation advances contravenes section 134(5) of the *Act* because the costs it claims related to compliance and enforcement costs without being embodied in a court order. An interpretation that contravenes a statutory provision is, by definition, unreasonable….

[37] I see no error in the Tribunal's interpretation and application of principles stated in *Amlani*.

Issue 6: Reasonable Apprehension of Bias

[38] The allegation of reasonable apprehension of bias was made against Vice-Chair Clifton, who decided the jurisdictional issue. It was not made against Member Sanford, who decided the balance of the issues.

[39] The allegation of reasonable apprehension of bias was made after Vice-Chair Clifton decided the jurisdictional issue, but before the hearing on the balance of the issues. The relief sought was an order finding reasonable apprehension of bias and consequent recusal from the balance of the proceeding, or in the alternative, that the Vice-Chair not hear the balance of the proceeding. The relief sought did not include a request that the jurisdictional decision be set aside and re-heard by another member of the Tribunal.

[40] Vice-Chair Clifton did not rule on and did not find that there was a reasonable apprehension of bias. Rather, in the exercise of his discretion, he voluntarily stepped aside to avoid the need to delay matters further to litigate the recusal issue. Not having found a reasonable apprehension of bias, the Vice-Chair did not put his mind as to when this apprehension arose, and what impact that finding would have on his earlier ruling on jurisdiction.

[41] Member Sanford then dealt with the issue as follows (Decision, paras. 1, 3, 8-11):

> This hearing began before Vice-Chair Michael Clifton. On January 19, 2021, Vice-Chair Clifton recused himself and I was assigned to adjudicate the hearing. The parties did not request that the hearing be started again. The hearing was in writing and no witnesses were called. Submissions had not yet been made and I had an opportunity to ask the parties questions. In light of all these factors, I decided to continue the hearing rather than re-start it.
>
> ….
>
> PSCC779 contests the jurisdiction of the CAT to hear this matter. The issue of the CAT's jurisdiction in this case was decided earlier in these proceedings and it is not appropriate to decide the matter again. The motion decision was that the CAT does have the jurisdiction to hear this case.
>
> ….
>
> PSCC779 challenges the jurisdiction of the CAT to hear this matter. However, earlier in these proceedings, PSCC779 brought a motion to dismiss Mr. Rahman's application on the grounds that the CAT lacked the jurisdiction to hear it. That motion was denied in the decision, *Rahman v. Peel Standard Condominium Corporation No. 779,* 2021 ONCAT 1. PSCC779 advanced the same or substantially similar grounds in its current submissions. PSCC779 has provided no persuasive reason to re-litigate this issue.

> The CAT's jurisdiction arises under Ontario Regulation 179/17 (the "Regulation") to the Act and under subsection 1.44 of the Act. Subparagraph 1(1)(d)(iii) of the Regulation gives the CAT jurisdiction over disputes with respect to provisions of the declaration, by-laws or rules of a condominium that "prohibit, restrict or otherwise govern the parking", including parking on common elements, such as the outdoor parking space at PSCC779. Subparagraph 1(1) (d)(iv) of the Regulation gives the CAT jurisdiction to hear disputes about the provisions of the Declaration of PSCC779 "that govern the indemnification or compensation of the corporation.... regarding a dispute described in this clause."
>
> Subsection 1.44 of the Act sets out the orders which the CAT may make and includes, in subparagraph 1.44(1)2, "An order prohibiting a party to the proceeding from taking a particular action or requiring a party to a proceeding to take a particular action." Subparagraph 1.44(1)3 permits damages "as a result of an act of non-compliance". Subparagraph 1.44(1)4 permits the award of costs.
>
> I conclude that the CAT has the jurisdiction both to hear this matter and to issue the Order set out below.

[42] It is clear from the record that the appellant was seeking to have a fresh member hear the merits of this case, rather than relitigating the jurisdictional issue. Otherwise, it would not have proposed that the Vice-Chair voluntarily step aside rather than adjudicate the recusal issue on the merits. Having taken this approach to the issue, the appellant may not now argue that the Vice-Chair was bound to decide the recusal issue and consider whether to set aside his own prior ruling.

[43] Finally, on this point, the issue of jurisdiction is a question of law. The parking issue has already consumed far more resources, and taken far longer, than is reasonable leaving the ongoing conflict to fester between the parties. Even if I had concluded that the Vice-Chair had erred in failing to decide the conflict issue, and that Member Sanford had erred in failing to adjudicate the jurisdiction issue anew, I would not have sent the issue back for re-adjudication: as a matter of law this dispute was within the Tribunal's jurisdiction, and it would be contrary to the interests of justice to have the case re-heard. I would not give effect to this ground of appeal.

Summary

[44] The gravamen of the Tribunal's decision is that where a unitholder has a disabled parking permit from an authority with jurisdiction to issue the permit, it is not for a Condominium Board to question the permit-holder's entitlement to use accessible parking. There is no issue in this case about which accessible parking a unitholder should park in: the only designated accessible parking are the exterior spots in which Mr Rahman was parking. This analysis discloses no error in law and is manifestly reasonable in fact. The grounds of appeal – jurisdictional, procedural and technical – do not undercut the substantive reasonableness of the decision below. I would dismiss the appeal.

Costs

[45] Mr Rahman began his oral submissions with allegations of fraud and dishonesty against the appellant and its lawyers. I immediately intervened, as President of the panel, directing the appellant to the issues on appeal and warning him of potential consequences of making allegations of fraud and dishonesty wantonly. He persisted in the allegations – which he did not establish – and which, in substance, were either unrelated to the issues on appeal, or amounted to little more than an allegation that the appellant was wrong and should have known it was wrong.

[46] Then, at the conclusion of the appeal, Mr Rahman indicated that he was seeking about $35,000 in costs. He is self-represented. A fully represented party responding to this appeal would ordinarily expect a costs award in this court between $5,000 and $10,000 for this appeal.

[47] Ordinarily I would consider a costs award for a self-represented litigant responding to an appeal of this kind to cover disbursement expenses and a modest amount for time spent working on the appeal. In this case, I would deprive Mr Rahman of his costs for his conduct in relation to this appeal.

Order

[48] For these reasons, I would dismiss the appeal without costs.

"D.L. Corbett J."

"Fitzpatrick J."

"Hebner J."

Date of Release: June 26, 2023

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D.L. Corbett, Fitzpatrick and Hebner JJ.

BETWEEN:

Peel Standard Condominium Corporation No. 779

Appellant

– **and** –

Aqib Rahman and Condominium Authority of Ontario – Condominium Authority Tribunal

Respondents

REASONS FOR DECISION

D.L. Corbett J.

Date of Release: June 26, 2023