

CITATION: Toronto Standard Condominium Corp. No. 1899 v. Devlin, 2024 ONSC 2063
COURT FILE NO.: CV-23-00704048-0000
DATE: 20240408

ONTARIO SUPERIOR COURT OF JUSTICE

RE: Toronto Standard Condominium Corporation No. 1899, Applicant

-and-

Paula Devlin, Respondent

BEFORE: Robert Centa J.

COUNSEL: Michael Prosia, for the applicant

No one appearing for the respondent

HEARD: April 8, 2024

ENDORSEMENT

- [1] Paula Devlin owns and is the sole resident of a condominium unit in Toronto Standard Condominium Corporation No. 1899. Starting in the spring of 2023, Ms. Devlin started to disturb, threaten, intimidate, and harass the residents, staff, and board members of the corporation. The corporation became so concerned that it applied for and obtained a compliance order under s. 134 of the *Condominium Act*. On November 17, 2023, Callaghan J. ordered Ms. Devlin to comply with the provisions of the Act and to stop her anti-social and threatening behaviour. In January 2024, Ms. Devlin breached the order and assaulted a housekeeper with a sharp object.
- [2] The corporation now seeks extraordinary relief, including an order that Ms. Devlin be required to vacate and sell the unit.¹
- [3] Ms. Devlin has demonstrated that she will not comply with court orders. She has not filed any evidence on this application to explain her conduct or to provide any basis to conclude that she is willing to conduct herself in a lawful manner. I am satisfied that her presence in the building poses a real and significant threat to the health and well-being of the residents. In the absence of any evidence or explanation from Ms. Devlin, I find that it is appropriate to grant the relief sought by the corporation.

¹ Ms. Devlin did not appear at the hearing of the motion and, after waiting fifteen minutes as required by rule 3.03(3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, I ordered that the hearing proceed in her absence.

Statutory scheme

- [4] The corporation has the statutory objects and duties to control and manage the common elements on behalf of the owners and to take all reasonable steps to ensure that the owners and occupiers of the units comply with the Act and the condominium's declaration, by-laws, and rules.² The Act places parallel obligations on owners and occupiers of units to comply with those same instruments.
- [5] Section 117 of the Act obliges the corporation to ensure that no unsafe condition, or activity that is likely to cause harm to persons or property, is permitted to continue in a unit or the common elements.
- [6] Section 134 of the Act gives the Superior Court of Justice jurisdiction to grant an order enforcing compliance with the Act and the condominium's declaration, by-laws, and rules, and to grant relief that is fair and equitable in the circumstances.³ The court has jurisdiction where an occupant's actions are likely to damage the property or to cause an injury to a person.⁴

Ms. Devlin's conduct justifies requiring her to sell her condominium unit

- [7] As I will describe below, Ms. Devlin's behaviour can no longer be tolerated. She has repeatedly breached the condominium's declaration, by-laws, and rules in ways that are extremely dangerous. Moreover, she seriously breached the compliance order issued by Callaghan J. In the circumstances, I see no choice but to order her removal from the condominium unit.
- [8] One particularly dramatic example of Ms. Devlin's misbehaviour was filmed by the target of her attack. On July 13, 2023, Ms. Devlin confronted a resident, repeatedly called him a "scumbag," and shouted the following things at him:

Ms. Devlin: You're a fucking piece of shit. Yeah. I got a gun in my purse. It's waiting for you. So if you come back on my property, guess what's going to happen?

Resident: What is going to happen?

Ms. Devlin: I'm going to shoot you. ...

Ms. Devlin: What the fuck is that, a picture of your fucking grandmother that you fucked? That's right. You're a dirt bag. What

² *Condominium Act, 1998*, S.O. 1998, c. 19, s. 17.

³ Generally, the relationship between landlords and tenants will be governed by the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17. Nevertheless, the court has jurisdiction to make orders that affect residential tenancies where the tenant resides in a condominium unit, see *MTCC No. 1260 v. Singh*, 2022 ONSC 1606, at para. 40.

⁴ See s. 1(3) of O.Reg. 179/17, and s. 117(1) and 134 of the Act.

did she do to you to make you fucking rape children? Tell me. What did she do to you, you fucking pervert?

- [9] The video is disturbing, to say the least.
- [10] The corporation filed five affidavits on the return of its original motion. The affidavits describe Ms. Devlin’s increasingly threatening and anti-social behaviour. This included screaming at residents, making veiled (and not-so-veiled) threats to kill residents, disrupting an annual general meeting of the corporation, banging on doors, verbally berating residents and staff, and making racist and discriminatory comments.
- [11] Justice Callaghan reviewed all of these affidavits and, on November 17, 2023, issued a compliance order that required Ms. Devlin to cease any threatening or harassing behavior, to cease contact with any member of the board of directors of TSCC 1899, and to comply with the Act, and the corporation’s declaration and rules.
- [12] The court expects individuals to comply with its orders. Compliance orders, such as the one issued by Callaghan J., provide clear and direct direction to individuals covered by their terms. If a person does not abide by the terms of a compliance order, that is strong evidence that they are not willing to abide by the legal obligations that attach to living in a condominium community. How a person responds to a compliance order sheds significant light on whether or the court can expect that person to govern themselves in the future. In this case, Ms. Devlin breached the compliance order and did so in a particularly dangerous and threatening manner.
- [13] On January 4, 2024, Ms. Devlin confronted a woman who arrived to clean a neighbouring unit. Ms. Devlin repeatedly yelled at the woman to “get the fuck out of here” and attempted to grab the unit keys out of the woman’s hands. As the woman attempted to get away, Ms. Devlin became aggressive, physically violent, uncontrollable, and swung at the woman while holding a sharp object. The woman was cut, scratched and had her left shoulder injured by Ms. Devlin.
- [14] Ms. Devlin has continued to confront and scream at other residents, who understandably describe being concerned by Ms. Devlin’s aggressive and erratic behaviour. The evidence is clear and uncontradicted that Ms. Devlin’s behaviour has caused residents to feel unsafe in their own homes.
- [15] Given Ms. Devlin’s repeated breaches of the order of Callaghan J., and her ongoing failure to comply with the condominium’s declaration, by-laws, and rules, I have little confidence that any step short of removing Ms. Devlin immediately and permanently from the condominium will ensure the health and safety of the residents and staff of the building.⁵

⁵ *Metropolitan Condominium Corporation No. 747 v. Korolekh*, 2010 ONSC 4448, at paras. 86-89; *Carleton Condominium Corporation No. 348 v. Chevalier*, 2014 ONSC 3859, at para. 23; *York Region Condominium*

- [16] As I mentioned, Ms. Devlin did not file any evidence on this application. I know nothing of her version of events. There is nothing before me to suggest that her behaviour was an aberration or that there is a plan in place to reduce and minimize the risks of future misconduct. Such evidence would have been helpful and might have persuaded me to consider giving her one last chance to demonstrate her ability to comply with court orders and her statutory obligations. In the absence of such evidence, however, the court cannot tolerate the breach of its orders and the escalating pattern of Ms. Devlin's misconduct. I find that no lesser order is appropriate in the circumstances.
- [17] I declare that Ms. Devlin is in breach of sections 117 and 119 of the Act, the condominium's declaration, by-laws, and rules, and the order of Callaghan J.

Costs

- [18] The corporation seeks its costs of the application on a full indemnity basis, fixed in the amount of \$20,174.71. Subsection 134(5) of the Act provides that where a condominium corporation obtains an award of costs against an owner in a compliance application, the condominium corporation is entitled to charge back its actual (full indemnity) costs to the common expenses for the unit, and demand payment by the owner:

If a corporation obtains an award of damages or costs in an order made against an owner or occupier of a unit, the damages or costs, together with any additional actual costs to the corporation in obtaining the order, shall be added to the common expenses for the unit and the corporation may specify a time for payment by the owner of the unit.

- [19] The Court of Appeal for Ontario has explained that this provision is "intended to shift the financial burden of obtaining compliance orders from the condominium corporation and ultimately, the innocent unit owners, to the unit owners whose conduct necessitated the obtaining of the order."⁶
- [20] Despite the legislative provision, the costs claimed by the corporation must still be reasonable and I must review the costs outline to ensure that they are not excessive.⁷ Given the number of attendances on this file, the detailed affidavit evidence marshalled in support of the allegations, and the preparation of the factum, I find that the costs claimed are reasonable. There appears to have been appropriate delegation of work and little unnecessary duplication.

Corporation No. 794 v. Watson, 2021 ONSC 6574, at paras. 46 to 58; *Carleton Condominium v. Poirier*, 2021 ONSC 3778, at paras. 143-152.

⁶ *Metropolitan Toronto Condominium Corp. No. 1385 v. Skyline Executive Properties Inc.*, 2005 CanLII 13778, (2005), 253 DLR (4th) 656 (Ont. C.A.) at para. 17; *Toronto Standard Condominium Corp. No. 2581 v. Paterno*, 2023 ONSC 4343, at para. 17; *TSCC 2519 v. Emerald PG Holdings et al.*, 2021 ONSC 7222.

⁷ *Paterno*, at para. 62.

[21] I award the corporation its costs in the amount claimed.

Order

[22] I order that:

- a. Ms. Devlin shall immediately list her condominium unit for sale with a realtor and complete a sale of the unit within 90 days from the date of this order, except with leave of the court;
- b. Ms. Devlin shall vacate the unit by the earlier of the closing of the sale transaction of the unit or within 90 days from the date of the order;
- c. If Ms. Devlin does not list her unit for sale within 30 days, or if the unit has not been sold and transferred within 90 days from the date of this order, the corporation may apply for one or both of an order for possession of the unit and the appointment of a receiver and manager to sell the unit pursuant to this order;
- d. Ms. Devlin shall not attend or come within 100 meters of TSCC 1899 property, Toronto effective 90 days from the date of this order;
- e. Ms. Devlin shall pay \$20,174.71 to the applicant as legal costs of the application, including taxes and disbursements, which amount shall be added to the common expenses for the unit, pursuant to s. 135(5) of the *Condominium Act*.

[23] The applicant may deliver a draft order in Word reflecting these reasons for decision to my judicial assistant without the approval of the respondent as to form and content.

Robert Centa J.

Date: April 8, 2024