

Case Name:

**Apartments International Inc. v. Metropolitan Toronto
Condominium Corp. No. 1170**

Between

Apartments International Inc., (plaintiff/appellant), and
Metropolitan Toronto Condominium Corporation No. 1170,
(defendant/respondent)

[2003] O.J. No. 1250

Docket No. C39087

Ontario Court of Appeal

Toronto, Ontario

McMurtry C.J.O., Doherty and Gillese JJ.A.

Heard: April 2, 2003.

Oral judgment: April 2, 2003. Released: April 16, 2003.

(4 paras.)

On appeal from the judgment of Justice Sidney N. Lederman dated October 4, 2002.

Counsel:

Michael A. Spears, for the plaintiff/appellant.

Jonathan H. Fine, for the defendant/respondent.

The following judgment was delivered by

¶ 1 **THE COURT** (endorsement):— We agree with the analysis and conclusions of the motion judge. The validity of rules 7.01 and 7.07 was not in question. The evidence that units in the condominium rented by the appellant were regularly being used for "transient or hotel purposes" was quite simply overwhelming. That evidence included a series of admissions made on behalf of the appellant.

¶ 2 The Directors of the respondent were statutorily obliged to enforce the rules. The evidence leaves no doubt that the steps taken on behalf of the respondent were consistent with that obligation and did not constitute an illegal or unlawful means. The appellant's claim for intentional interference with contractual relations could not succeed absent proof of an unlawful means. We are satisfied that there was no triable issue on that question.

¶ 3 We also agree with the motion judge that the appellant failed to clear the triable issue hurdle on the question of economic loss. The appellant alleged that the respondent had improperly interfered with the contractual relations between it and certain unit owners in the condominium. The appellant tried to demonstrate that interference and consequential economic loss through second and third hand evidence. The motion judge was entitled to consider the nature of the evidence in deciding whether or not it was capable of raising a triable issue. We see no error in his conclusion in that regard.

¶ 4 The appeal is dismissed with costs.

McMURTRY C.J.O.

DOHERTY J.A.

GILLESE J.A.

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