

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: April 11, 2025

CASE: 2024-00298N

Citation: Toronto Standard Condominium Corporation No. 2510 v. Sharma, 2025 ONCAT 55

Order under section 1.44 of the *Condominium Act, 1998*.

Member: Laurie Sanford, Member

The Applicant,

Toronto Standard Condominium Corporation No. 2510

Represented by Luis Hernandez, Counsel

The Respondent,

Rajat Sharma

Represented by Graeme Macpherson, Counsel

Hearing: Written Online Hearing – August 14, 2024 to March 13, 2025

REASONS FOR DECISION

A. INTRODUCTION

[1] Toronto Standard Condominium Corporation No. 2510 (“TSCC 2510”) submits that their condominium corporation “has achieved notoriety” in the news due to frequent, publicly reported issues. A popular blog describes TSCC 2510 as having “the sketchiest reputation”. Now TSCC 2510 alleges that, as bad as these issues have been for it, what is worse is the conduct of one of its board members, the Respondent Mr. Sharma. TSCC 2510 alleges that Mr. Sharma is engaging in harassing conduct which violates TSCC 2510’s governing documents and which is an annoyance or disruption. It requests an order directing Mr. Sharma to bring himself into compliance with the governing documents. TSCC 2510 proposes specific remedial action they request Mr. Sharma be directed to take.

[2] Mr. Sharma argues that, while it is clear that the other board members do not like him, he is motivated only by the best interests of TSCC 2510 and a desire to

improve TSCC 2510's management. He submits that all his actions are driven by that goal. He denies engaging in harassing conduct.

- [3] For the reasons set out below, I find that Mr. Sharma has taken it upon himself to intrude into the management operations of TSCC 2510 in a disruptive way. His conduct became a contributing factor in the resignation of both the condominium manager and the assistant condominium manager. I find that his conduct violated TSCC 2510's governing documents, in particular the rule on which TSCC 2510 relies. Mr. Sharma's conduct was, in fact and in law, an annoyance and disruption. I am directing Mr. Sharma to bring himself into compliance with the governing documents of TSCC 2510 and I encourage TSCC 2510 to take specific and concrete steps to reduce the disruptive effect of such conduct.

B. PRELIMINARY MATTERS

- [4] I am referring to both the former condominium manager and the assistant condominium manager by their initials to preserve their privacy. A board member was referred to in the testimony but did not testify or have an opportunity to respond to allegations made against him. I am anonymising references to him as well. A third board member did give testimony, and he is named in this decision.

- [5] In bringing this application TSCC 2510 relies on its rule 1(c) ("Rule 1(c)"), which provides:

No Owner, Resident, Guest or Owner's Contractor shall injure, harass, threaten, annoy or initiate any defamatory, threatening, hateful or discriminatory statement or action, or participate in any illegal or harmful conduct toward any other Owner, Resident, Guest or Owner's Contractor, or toward the Board, the Manager or any of the Corporation's Representatives.

- [6] At the outset of this hearing, Mr. Sharma brought a motion to dismiss some of the allegations against him on the grounds that the Tribunal did not have the jurisdiction to deal with them. In the decision on the motion (the "Motion Decision"), I found that some of the allegations were outside the jurisdiction of the Tribunal. I ruled that the remaining allegations could proceed, subject to certain jurisdictional criteria, which will be considered below.

- [7] These remaining allegations are that Mr. Sharma:

1. Caused the resignation of "LS" as the assistant condominium manager by creating a toxic, hostile and disruptive work environment;
2. Was the primary reason for the resignation of "CK" as condominium manager

because of his constant harassment, disruption and inappropriate behaviour;

3. Behaved in an abusive manner towards management staff in meetings, telling the manager to “shut up” and taunting management staff;
4. Refused to leave the management office when asked to do so, claiming that as a director he had the right to be in the management office whenever he pleased; and
5. Frequently wrote to management staff in a rude and condescending manner, but not in a manner that was physically threatening.

TSCC 2510 also alleges that Mr. Sharma persisted in this conduct despite TSCC 2510’s warning him that the conduct was unacceptable.

- [8] Subparagraph 1(1)(d)(iii.2) of *Ontario Regulation 179/17* (the “Regulation”), gives the Tribunal jurisdiction to decide disputes about provisions in a condominium corporation’s governing documents that prohibit, restrict or otherwise govern any other nuisance, annoyance or disruption. “Other nuisance, annoyance or disruption” in this subparagraph refers to a nuisance, annoyance or disruption that is not otherwise addressed in the *Condominium Act, 1998* (the “Act”) or any regulation to it.
- [9] In considering the Rule, I concluded in the Motion Decision that it did not encompass conduct, which is a nuisance at law, as it did not meet the technical requirement that the conduct deal with the quiet enjoyment of property. However, I found that the Rule was broad enough in scope to encompass conduct which is found to be an annoyance or disruption, and I concluded that TSCC 2510 could proceed on this basis. As I noted in the Motion Decision, to succeed in this application, TSCC 2510 must demonstrate that the alleged misconduct complained of both constitutes a violation of Rule 1(c) and would also be, in fact and in law, an annoyance or disruption.
- [10] The parties differ on how these allegations are to be considered. TSCC 2510 submits that the conduct should be considered in its totality to determine if, taken together, the conduct constitutes a violation of its Rule 1(c) and amounts to harassment constituting an annoyance or disruption. Mr. Sharma argues that each allegation must be considered separately, and each must be found to be a violation of the rule. Mr. Sharma notes that in the Motion Decision, I rejected a similar argument by TSCC 2510 that the various complaints could be taken together to determine if they fell within the Tribunal’s jurisdiction. I ruled that each allegation had to be within the Tribunal’s jurisdiction to hear.

- [11] The question of whether conduct constitutes a rule violation is a threshold matter. Each head of the alleged conduct must be demonstrated to have occurred and, once the allegations are demonstrated, I must then find that the conduct violated Rule 1(c). In a sense, the situation is similar to the jurisdictional motion. If there are two separate allegations, neither of which constitute a violation of Rule 1(c), then aggregating them will not bring them within the purview of the rule.
- [12] The final part of the test that TSCC 2510 must meet is to demonstrate that the conduct is, in fact and in law, an annoyance or disruption. In determining this, the considerations are somewhat different. There may be circumstances in which various allegations may be taken together to determine whether an annoyance or disruption has occurred. For example, if someone bangs on a pipe at night, each bang may not rise to the level of an annoyance or disruption but if the banging goes on for hours, over multiple nights, at close intervals, then that might constitute an annoyance or disruption, if not a nuisance.
- [13] In this case, the five allegations against Mr. Sharma are, in the submissions of TSCC 2510, part of a pattern of harassment that constitutes an annoyance or disruption. The two people who say they were forced to resign from their management roles at TSCC 2510 in whole or in part due to Mr. Sharma's conduct, cited the three heads of alleged conduct referred to above: Mr. Sharma's abusive manner at meetings; his refusal to leave the management office; and his frequent and rude correspondence to management. A fellow board member, Nicholas Pearson, testified about the same conduct and also testified about the effect that Mr. Sharma's behaviour has had on him. I will consider the totality of Mr. Sharma's conduct in determining if it represents a pattern of harassment. I will also consider whether this harassment consists of conduct which is, in fact and in law, an annoyance or disruption.

C. ISSUES & ANALYSIS

- [14] The issues in this case have evolved during the hearing, in particular after the Motion Decision. Initially, there was a reference to section 117(2) of the Act, which is not applicable to the remaining issues. There was also a reference to section 15(c) of TSCC 2510's Declaration. This section deals with obstruction of a right due to conduct on the common elements and is no longer relevant. The remaining issues in this case may be summarised as follows:
1. Has Mr. Sharma's behaviour breached the Declaration and Rules of TSCC 2510, specifically section 20(b) of TSCC 2510's Declaration and Rule 1(c)?
 2. If so, does Mr. Sharma's behaviour constitute an annoyance or disruption?

3. What is the appropriate remedy?
4. Should TSCC 2510 be awarded compensation or costs?

Issue 1 – Has Mr. Sharma’s behaviour breached TSCC 2510’s governing documents?

[15] Section 20(b) of the Declaration binds condominium unit owners to comply with TSCC 2510’s governing documents, including its rules. If Mr. Sharma is found to have violated Rule 1(c), he will also be in violation of section 20(b) of TSCC 2510’s Declaration.

[16] As noted above, I have found, in the Motion Decision, that Rule 1(c) is broad enough in scope to encompass conduct which is an annoyance or disruption. With this established, to succeed in its application, TSCC 2510 must demonstrate for each of the allegations, that: i) the alleged conduct occurred; ii) the conduct violated Rule 1(c), and iii) the conduct, taken either separately or together, constitutes an annoyance or disruption.

[17] The most serious allegations against Mr. Sharma are that his conduct either caused or was the primary reason for the resignation of both the condominium manager and assistant condominium manager. As noted above, these two allegations encompass the conduct set out in the remaining three allegations; that is, Mr. Sharma’s abusive manner at meetings, his refusal to leave the management office and his frequent and rude correspondence to management are all cited as reasons for the resignations of the two managers.

[18] The first manager to resign was the assistant condominium manager, LS. TSCC 2510 alleges that Mr. Sharma caused the resignation of LS by creating a toxic, hostile and disruptive work environment. TSCC 2510 submitted LS’ resignation letter, dated January 4, 2024. In the letter, LS cites what she referred to as the “Rajat Regime”, referring to Mr. Sharma, and the “unorganized management structure” for hindering her ability to “thrive professionally” and making it increasingly difficult for her to continue working in what she describes as a “hostile environment”. She wrote:

Rajat’s countless Requests for Records, [Condominium Management Regulatory Authority of Ontario] claims against management, legal claims, [Condominium Authority Tribunal Claims] and endless harassment towards Management on all levels, constitutes the highest level of unprofessionalism. The problematic attempt to distract and limit Management’s ability to achieve the necessary requirements to do their jobs, is a clear tactic to gain “votes” from Owner’s [sic] to override the board for his own advantage. Rajat’s lack of

co-operation, absence of accountability, and persistent disregard for employee well-being, has eroded my job satisfaction and motivation to the point where it is no longer tenable for me to remain part of the Corporation.

[19] LS also made an affirmed witness statement. Her testimony was that she began working for TSCC 2510 in February 2023 as a site administrator. Shortly after, she was promoted to assistant condominium manager. LS testified that she attended three board meetings but, due largely to what she alleged was Mr. Sharma's conduct at the meetings, including "yelling at management for no reason, and providing passive aggressive remarks towards other board members", management decided to limit the staff in attendance at board meetings to the two most senior managers.

[20] LS testified that Mr. Sharma would send strongly worded emails to management when he wanted a personal exception to the TSCC 2510 rules. She also testified:

If Management was not able to provide an exception to the Rules for one of Mr. Sharma's friends, tenants, acquaintances etc., he would call, email or text management demanding these exceptions be made. Management did not make any exceptions without the majority of the board's approval. This would anger Mr. Sharma, and further harassment would ensue through emails and at board meetings.

[21] LS testified that Mr. Sharma would come to the management office and, while staring at the condominium manager's licences posted on the wall, make what she characterised as "passive" remarks like, "is your licence valid" and "I wonder what the CMRAO would say about your license". LS made a variety of allegations against Mr. Sharma, including allegations that have been ruled to be outside the jurisdiction of the Tribunal. She concluded, "I was being harassed every single day by Mr. Sharma. This was a leading contributor to my decision to resign."

[22] TSCC 2510 also alleges that Mr. Sharma was the primary reason for the resignation of "CK" as condominium manager because of his constant harassment, disruption and inappropriate behaviour.

[23] CK did not testify but TSCC 2510 submitted her resignation letter, dated March 17, 2024, together with an earlier, detailed “Harassment Submission” dated November 20, 2023. The 10-page Harassment Submission details the conduct that CK considered to be harassment, including what she characterised as “excess communications” with continuing follow-up if responses are not received in what Mr. Sharma regarded as a timely way. CK cited examples of multiple emails during the same day on the same subject. CK reported that she found some of the correspondence “insulting, menacing, defamatory and amounts to harassment”. One example was a statement in one of Mr. Sharma’s emails to CK dated November 13, 2023, concerning an error in an Airbnb refund payment, which was being investigated. Mr. Sharma wrote:

Please refrain from providing irrelevant information or introducing new aspects into your responses. Please also refrain from any unprofessional conduct that would be unbecoming of [*sic*] of an ‘Acting – General Manager’ of the Corporation. Your prompt response to this matter is expected by the end of the business day today.

[24] In a subsequent email the same day, Mr. Sharma wrote, “management should not be involved in any additional activities outside their assigned duties at the present time ... this is because, the management is unable to cope up [*sic*] with its existing responsibilities”.

[25] CK reported that Mr. Sharma made numerous records requests and, although she contends that all time limits were met, Mr. Sharma wrote on November 18, 2023, complaining that his records requests had not been acknowledged. He wrote, “the lack of acknowledgement suggests unnecessary delays at management’s end”. CK contends that an acknowledgment had been provided.

[26] The board of directors followed-up on this Harassment Submission with a “Conduct Notice” dated December 22, 2023, to both Mr. Sharma and a fellow director who will be referred to as “LF”. In this notice, the board repeats some of CK’s allegations and raises new allegations of its own about the conduct of Mr. Sharma and LF. The board attaches emails which it says are problematic. It also refers to an earlier “Conduct Notice” dated January 2023 which covers some of the same grounds. It concludes:

For greater clarity we are once again providing guidance as to our expectation of your conduct:

- We demand that you comply with the requirements of the Condominium Act with respect to director conduct, including and with emphasis on the provisions requiring directors to act in good faith and as reasonably prudent individuals.

- We require you to comply with the duly-approved communication policy. If you wish to issue an instruction to management outside of a duly-called board meeting, you must send the request *only* to the board of directors or the board president, Nicholas Pearson. You are not authorized to issue directions to management.
- You are not authorized to represent the Corporation to owners or any external parties.

[27] After the Harassment Submission, CK made three specific complaints to the board about Mr. Sharma's conduct. One, dated February 13, 2024, was a complaint about Mr. Sharma coming into the management office "with an intent to distract". CK reported that Mr. Sharma "barged" into the office of a member of the staff and refused to leave, arguing that as a board member he had a right to be there and to see what the staff member was working on. Mr. Sharma wanted samples of some pipes that had been recently replaced as part of a plumbing improvement and advised that he wanted to send the pipes out for laboratory testing and that he wanted to consult with a plumbing inspector friend. The staff member eventually put his papers away and escorted Mr. Sharma out of the area. According to CK, Mr. Sharma remained in the office, "hovering" over another staff member's desk and asking numerous questions of CK.

[28] CK's second specific complaint was dated February 21, 2024, and recounted an incident at the previous night's board meeting. CK wrote that while she was attempting to respond to a question, Mr. Sharma told her to "shut up". CK also asserted that:

[Mr. Sharma]'s behaviour at the formally convened board meeting included talking over everyone and not following the agenda, bullying, menacing and taunting language, false accusations of breaching best practices, threatening and attempts at silencing and intimidation, particularly of me as an employee and General Manager but also of other board members in my opinion. His level of meeting disruption, unprofessionalism, and creating a hostile work environment are also preventing management from inviting other management staff to board meetings as it is a highly threatening, stressful and disrespectful environment.

[29] On March 12, 2024, CK reported to two board members that she had spend 10.5 hours that day replying to information required to defend herself against a CMRAO complaint filed by Mr. Sharma. TSCC 2510 alleges that Mr. Sharma made multiple CMRAO complaints against the management team and that the previous complaints had been dismissed.

[30] On March 17, 2024, CK submitted her resignation to some members of the board. She wrote:

Once we settle on an exit path, you can freely cite to the owners that Rajat Sharma and [LF]'s constant threats, purposeful mal intent and harassment, attacks on individuals and the management team as a whole, their disruptive and completely inappropriate behaviours including at formally convened board meetings, filing a CMRAO complaint against me (the first ever anyone has ever questioned my ethics and integrity) and their divisive nature have weighed heavily on my decision and conclusion that I cannot function in such an environment. I know my decision unfortunately feeds into the outcome [LF] and [Mr. Sharma] want to destabilize [TSCC 2510's] management but unfortunately my health has to take priority. Owners should know the truth about these two board members including the extent of interference with management's ability to manage the properties, threat, abuse, harassment and mental toying imposed on management in our effort to competently and honestly serve the Corporation to a high standard.

[31] Nicholas Pearson, a board member of TSCC 2510, also testified. He repeated key elements of CK's complaints about Mr. Sharma's conduct in his testimony. As noted above, LS also corroborated CK's testimony that management limited the number of staff that would attend any management meeting due to Mr. Sharma's alleged conduct.

[32] In his testimony, Mr. Pearson expressed a number of opinions, which I am not considering. He also offered eyewitness testimony. He testified that he had "personally witnessed on numerous occasions how [Mr. Sharma] was rude, condescending and generally negative towards [CK]." He testified that he was present at the February 20th board meeting and that:

... it was Mr. Sharma that would not stop speaking and directors struggled to get in a word. What Mr. Sharma perceives as interruptions are in fact attempts to contribute to the discourse which is being filibustered by Mr. Sharma.

I admit that during a moment when there was no order in the meeting I said "enough" to Mr. Sharma in a forceful manner. However, Mr. Sharma's comment of "shut up" was not made during everyone speaking at the same time, nor was it directed at everyone. It was clear in my view that he was specifically directing his remark to [CK] alone while she attempted to explain management's position on the topic at hand. ...

Mr. Sharma has consistently harassed me, other Board members, other owners and management.

[33] Mr. Sharma gave testimony about his dealings with LS. Mr. Sharma testified that he had no direct interactions with her and exchanged only two emails. He denies harassing or threatening, injuring or annoying LS or making any threatening or hateful statement against her. Mr. Sharma notes that LS, in her resignation letter, listed a number of factors in her decision to leave, including “pervasive problems with the corporation” and the “unorganized management structure”. He testified:

I agree that there are problems at the Corporation at the Board level. It is no secret that there is strife on the Board and that this can make management's job more difficult. I deny that I am responsible for [LS]'s departure.

[34] Concerning the resignation of CK, Mr. Sharma does not deny that the various emails referred to above were actually sent, although he contends that TSCC 2510 is more focussed on the volume of emails he has written rather than their tone. Concerning CK's allegation that in a chain of November 13, 2023, emails, he suggested that she was unprofessional and not coping with her everyday responsibilities. Mr. Sharma testified that he did write four emails on November 13th in the same conversation stream, but they were written because he had legitimate concerns about how CK was managing TSCC 2510. Mr. Sharma denies being rude, unprofessional, harassing or in breach of the rules in these emails. Mr. Sharma acknowledges saying “shut up” at the February 20, 2024, board meeting but it was his testimony that tempers flared generally at the meeting and his remark was addressed to the room as a whole, not to CK personally.

[35] Mr. Sharma pointed to an email he received from CK in November 2023 in which she expressed appreciation for meeting with him and cited this as evidence that the relationship he had with CK was not negative. TSCC 2510 submits that this email should be interpreted as “a plea by a person trying to manage a difficult person”. TSCC 2510 notes that in the same email, CK says that she does not like “internal conflict within [the] community” and invites Mr. Sharma to either support or oppose her.

[36] Mr. Sharma acknowledges sending an email on April 24, 2024 that was rude, but he testified that he had provocation. His testimony was that prior to an April board meeting he was advised that he was being prohibited from interacting with the management of the TSCC 2510 or representing TSCC 2510 in any official capacity. His testimony was that he was silenced against his will at the meeting, which apparently took place after the resignation of CK but perhaps before she left the position. On April 24, Mr. Sharma wrote an email to another board member. I have reviewed the email and find that it was rude, insulting and not supported by the evidence before me.

[37] Mr. Sharma says it is not accurate to suggest that he is the only one acting inappropriately at board meetings. He testified to an incident at a December 2024 meeting where Mr. Pearson called him an “idiot” in a fit of anger.

[38] Mr. Sharma testified that he did visit the management office on February 13, 2024, but it was in his capacity as a board member and for the purpose of welcoming a new hire. His testimony was that CK intervened “in a rude and condescending manner” and asked him to leave in the presence of other staff and contractors. He testified that CK’s manner left him “physically intimidated and afraid.”

[39] It was Mr. Sharma’s testimony that all he was attempting to do was to uphold the best interests of TSCC 2510, despite being in an environment when some of his fellow board members did not like him. Concerning CK, Mr. Sharma testified:

While I can certainly understand that [CK] may not have appreciated some of the criticism or hard questions I posed to her, as a director, I have a statutory duty to uphold and look out for the best interests of the Corporation. While not all my communications with [CK] were about good news, I maintain that throughout all our interactions I was professional and polite.

[40] Mr. Sharma’s testimony about the April 24, 2024, meeting and his resentment at being told before the meeting about restrictions placed on his ability to interact with management ignores the fact that, in the December 22, 2023, Notice of Conduct, the board had already placed restrictions on his ability to give instructions to management. He appears to have ignored these earlier restrictions, based on both his and CK’s reports of interactions she had with him after that date.

[41] I accept the testimony of LS and Mr. Pearson and the written correspondence of CK, including her resignation letter. CK’s reports were detailed and written contemporaneously with events. Each of CK, LS and Mr. Pearson recounted many incidents, and I include only the most striking examples. There are similarities in what the three people recount that not only provide corroboration but also point to a pattern of behaviour. I conclude that the conduct of Mr. Sharma that they complain of did in fact occur. I note that both LS and CK went on to speculate as to Mr. Sharma’s motives. There is no evidence before me beyond this speculation and I do not accept it.

[42] TSCC 2510’s Rule 1(c) prohibits harassing or annoying statements or actions toward the board, the Manager or any of the TSCC 2510’s representatives. I find that LS and CK were protected people under this rule: CK as the Manager and LS as a representative. I do not interpret the word “annoy” in Rule 1(c) as meaning creating an annoyance in the sense meant in the Act. Given that the rule is meant

to be read and understood by the owners, I read “annoy” in the ordinary English sense of the word. The Canadian Oxford Dictionary defines “annoy” as, “1. Cause slight anger or mental distress to; 2. Molest, harass repeatedly.” The same dictionary defines harass as, “1. trouble and annoy continually or repeatedly 2. Make repeated attacks on (an enemy or opponent)”

[43] I conclude that Mr. Sharma violated Rule 1(c) by harassing and annoying CK and LS. CK and LS each refer to feeling harassed by Mr. Sharma and they each gave concrete examples of conduct that might reasonably meet that definition. Even accepting Mr. Sharma’s testimony that he had limited direct interaction with LS, this is not a full answer to her testimony that he created a toxic and hostile work environment. LS testified to conduct that she witnessed both in the management office and in the board room.

[44] The situation with regard to Mr. Pearson is not as clear for several reasons. First, while he concludes by saying that Mr. Sharma consistently harassed him, he gives very few examples of that conduct. I am not persuaded that there is persuasive evidence of specific behaviour directed at Mr. Pearson. Second, Mr. Pearson is in a different position *vis a vis* Mr. Sharma than were LS and CK. Mr. Pearson is a peer of Mr. Sharma while LS and CK, as part of the management of PSCC 2510, were responsible to the board of directors, including Mr. Sharma. TSCC 2510 has not demonstrated, on a balance of probabilities, that Mr. Sharma violated Rule 1(c) in his dealings with Mr. Pearson.

Issue 2 - Does Mr. Sharma’s behaviour constitute an annoyance or disruption?

[45] Mr. Sharma’s conduct was, as found above, in fact harassing and annoying in violation of Rule 1(c). His conduct may also be characterised as disruptive. The Canadian Oxford Dictionary defines “disrupt” as, “1. Interrupt the flow or continuity of a meeting, speech etc.; bring disorder to 2. Separate forcibly, shatter; 3. *Med.* Rupture.” Mr. Sharma disrupted board meetings with his aggressive overtalking. His conduct led the management of TSCC 2510 to limit the attendance at the board meetings to two senior management members, restricting middle and junior management from the experience of observing the conduct of board business. Mr. Sharma’s attendance at the management office and his inserting himself into management business disrupted the management’s conduct of that business. His repeated emails and his multiple reporting of management to the CMRAO had the same effect. Ultimately, his conduct was a factor in the resignation of both LS and CK. Their decision to leave the management of TSCC 2510 undoubtedly disrupted their lives. Being obliged to recruit and train their successors undoubtedly disrupted the operation of TSCC 2510. I conclude that Mr. Sharma’s conduct was

both annoying and disruptive in fact.

- [46] The remaining question is whether Mr. Sharma's conduct constitutes an annoyance or disruption at law. Not everything that annoys is an annoyance at law; not everything that disrupts is legally a disruption. The distinction between an annoyance or disruption in fact and in law is a question of degree rather than of substance. The criteria used to determine if conduct is an annoyance, or disruption in law is directly analogous to the criteria which the Tribunal has established in considering whether conduct is a nuisance in law.
- [47] Mr. Sharma submits that to constitute an annoyance or disruption at law, the activity must be unreasonable. The unreasonableness must be determined objectively. Mr. Sharma submits that "an annoyance may not be as substantial as a nuisance but cannot be merely trivial. It should exceed a normal level of tolerance that may be expected by another person in the same context." I agree that these are the characteristics of an annoyance and would add that the annoyance must be substantial. The frequency and duration of the annoyance are also factors in determining if the legal test has been met.
- [48] Mr. Sharma doubts that a case can be made for his conduct rising to the level of a disruption, but I have found above that Mr. Sharma's conduct was in fact disruptive. To be a legal disruption, the conduct must go beyond the trivial. The conduct must be objectively unreasonable. It must be substantial, more than a reasonable person in the same situation should be expected to tolerate. The frequency and duration of the disruption are also factors in deciding whether it is a case of a legal disruption.
- [49] Mr. Sharma, in his closing submission, states:
- It is clear that there something about Mr. Sharma that the majority of the other board members simply do not like. They don't like the questions he asks. They don't like that he is detailed and meticulous. They don't like the high standards he holds the Board and management to. But rather than focus their energies on the betterment of the Corporation, they have dedicated the Corporation's time and resources into this application in a transparent effort to silence Mr. Sharma.
- [50] TSCC 2510 concedes that, taken separately, Mr. Sharma's emails might be considered to be those of a concerned board member conscientiously carrying out his duty. However, in TSCC 2510's submission, taken together, Mr. Sharma's emails show a pattern of harassment that is an annoyance or disruption.

[51] It is not clear under what authority Mr. Sharma initiated his emails on management performance or his visits to management offices. There is no evidence that Mr. Sharma consulted with any other board member before taking these actions, even after the Conduct Notice of December 22, 2023, in which the other members of the board directed him not to issue instructions to management without consent. This goes beyond being a meticulous board member. Mr. Sharma took it upon himself to insert himself into the day-to-day business of TSCC 2510's management. He went beyond being a meticulous guardian of the interests of the condominium corporation and became intrusive, annoying and disruptive. This conduct was first complained of in early 2022 and continued through to the spring of 2024, a duration of over two years. The test for an annoyance or disruption at law is objective. Both LS and CK spoke of their subjective feelings of harassment, but their resignations are an objective fact. On reviewing the totality of Mr. Sharma's conduct towards them, I conclude that LS and CK were pushed beyond the limits of what a reasonable person should be expected to tolerate in the circumstances. Each took the serious action of resigning their positions. The annoyance and disruption were substantial. I conclude that Mr. Sharma's conduct constitutes both an annoyance and a disruption in law.

Issue 3 - What is the appropriate remedy?

[52] TSCC 2510 requests the Tribunal order that Mr. Sharma comply with sections 20(b) of its Declaration and its Rule 1(c) by permanently ceasing all harassing, annoying or disturbing conduct including, but not limited to:

1. Communicating with management in a rude and condescending manner;
2. Attending the management office and refusing to leave upon request; and
3. Sending excessive email correspondence to management, board members, and owners, especially if any of those parties has not given him consent.

[53] I agree that Mr. Sharma should be directed to bring himself into compliance with TSCC 2510's Rule 1(c). I also agree that more is required than a simple direction to comply. Mr. Sharma has ignored the general admonition contained in the Conduct Notice of 2023. However, I have concerns about the specific wording TSCC 2510 is requesting. Directions such as "communicating with management in a rude and condescending manner" and "sending excessive email correspondence" are too vague to be effective. A prohibition against attending the management office and a probation against leaving the office on request are contradictory.

[54] I am reluctant to direct the specific actions the board should take. I would instead encourage the board to consider options that might assist in self-governance. For example, the board might nominate a board member to act as the sole liaison between the board and management outside of board meetings. The board might attempt to control board meetings and conduct generally by developing and publishing a code of board conduct. If such a code were enacted in a by-law as a criteria or qualification for board membership, there could be actionable consequences for misconduct.

Issue 4 - Should TSCC 2510 be awarded compensation or costs?

[55] TSCC 2510 submitted a bill of cost for this application. Under Rule 48.2 of the Tribunal's Rules of Practice, the Tribunal generally does not award costs for legal fees incurred in an application. An exception may be made where the unsuccessful party has engaged in unreasonable behaviour. It is true that Mr. Sharma delayed the commencement of this matter for months, but he did have a valid explanation, and he did retain a lawyer to move things along. After that, although Mr. Sharma defended himself vigorously, I do not find that he was unreasonable. No legal costs for the proceeding will be ordered.

[56] Under Rule 48.1 of the Tribunal's Rules of Practice, it is customary to award the successful party an amount equal to the amount paid on account of the Tribunal's fees. I will award TSCC 2510 \$200 for reimbursement of the fees it has paid.

D. CONCLUSION

[57] Mr. Sharma acted in violation of TSCC 2510's Rule 1(c) by harassing members of management to the point where two of them cited his conduct as a factor in their decisions to resign. This violation of Rule 1(c) consisted of conduct which was an annoyance and disruption under the Act.

E. ORDER

[58] The Tribunal Orders that:

1. Mr. Sharma will immediately bring himself into compliance with the governing documents of TSCC 2510 and in particular with the provisions of Article 20(b) of the Declaration and Rule 1(c).

2. Mr. Sharma will, within 30 days of the date of this Order, pay to TSCC 2510 the amount of \$200 to reimburse TSCC 2510 for its costs of filing this application with the Tribunal.

Laurie Sanford
Member, Condominium Authority Tribunal

Released on: April 11, 2025