



# HUMAN RIGHTS TRIBUNAL OF ONTARIO

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**BETWEEN:**

**Suzanne Munro**

**Applicant**

**-and-**

**Halton Condominium Corporation No. 77, J & W Condominium Management Ltd.,  
Don Rowatt and George Beyrouy**

**Respondents**

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## CASE RESOLUTION CONFERENCE DECISION

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**Adjudicator:** Mark Hart

**Date:** January 27, 2009

**File Number:** T-0005-08

**Citation:** 2009 HRTO 97

**Indexed as:** **Munro v. Halton Condominium Corporation No. 77**

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**APPEARANCES BY**

Suzanne Munro, Applicant )  
 ) On her own behalf  
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Halton Condominium Corporation #77,  
J & W Condominium Management Ltd.,  
and Don Rowatt, Respondents )  
 )  
 ) Karen Kisiel, Counsel  
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George Beyrouthy, Respondent )  
 ) Not appearing  
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[1] This is an Application dated July 2, 2008 under section 53(3) of Part VI of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “Code”).

[2] The Case Resolution Conference in this matter was scheduled to take place on January 8 and 9, 2009. In advance of the Case Resolution Conference, the Tribunal sent correspondence to the parties advising them to come to the hearing on January 8, 2009 prepared to address the issue of the respondent’s request to dismiss this Application on the basis of the Full and Final Release dated August 24, 2007 and certain other issues.

[3] At the commencement of the hearing on January 8, 2009, counsel for the respondents raised an issue as to whether any objection was being taken to her providing evidence to the Tribunal while still continuing to act as counsel. The applicant stated that she had no objection to respondents’ counsel providing evidence to this Tribunal provided that this evidence already had been disclosed in material filed with the Tribunal. On that basis, the hearing proceeded.

[4] In keeping with the highly expeditious manner in which s. 53(3) applications are to be conducted, at the conclusion of the hearing on January 8, 2009, I issued the following oral decision.

1. This is a request brought by the respondents to dismiss the application on the basis of a Full and Final Release signed by the applicant on August 24, 2007.
2. The applicant had commenced an action in Small Claims Court dealing with a variety of issues, including damage to her vehicle and arrears. In the context of this action, there is no dispute between the parties that on August 23, 2007 a settlement was reached that involved the payment of \$2,500 to the applicant, the dismissal of the Small Claims Court action without costs, and the execution of a Full and Final Release by the applicant. There also

is no dispute that the Full and Final Release was sent to the applicant by respondents' counsel on August 23, 2007 and signed by the applicant on the following day.

3. The opening paragraph of the release states:

In consideration of the payment of the sum of \$2,500 (Two thousand five hundred dollars) inclusive of claim, interest and costs, and the dismissal without costs of the action brought in the Burlington Small Claims Court as *Estate of Edgar A. Stott and Suzanne L. Munro versus Halton Condominium Corporation No. 77, J & W Condominium Management Ltd. and Active Management Ltd.* bearing court file no. SC-06-00000211-0000 (the "Action") and such good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Estate of Edgar Arthur Stott and Suzanne Munro also known as Suzanne Monroe (hereinafter referred to as the "Releasers") together with their respective heirs, administrators, successors, assigns, and executors hereby release, acquit and forever discharge Halton Condominium Corporation No. 77, J & W Condominium Management Ltd. and Active Management Ltd. (hereinafter referred to as the "Releasees") together with their respective directors, officers, employees, agents, owners, partners, successors, assigns, executors, affiliates, subsidiaries and related companies from any and all actions, causes of action, claims and demands for damages, indemnity, costs, interest, and loss or injury of every nature and kind howsoever arising which the Releasers or either one of them ever had, may have had or now have by reason of any cause, matter or thing, including any cause, matter or thing arising in connection with or related to the Action.

4. In addition, the second last paragraph of the release sets out an acknowledgement that the applicant has had sufficient time and opportunity to seek independent legal and other professional advice with respect to the terms of settlement and release. The respondents state that there was no deadline set for the applicant to sign and return the release, and this was not disputed.

5. An arrangement was made between the parties to meet in order to exchange the signed release and the settlement funds. After an initial unsuccessful attempt to meet, the evidence indicates that the applicant met with a representative for the respondents on September 5, 2007.
6. In the intervening period, the respondents had been notified by the Ontario Human Rights Commission of the complaint that had been filed by the applicant on October 18, 2006 and which forms the basis of this Application. Counsel for the respondents states that she told her client that she wanted to speak with the applicant about this human rights complaint before the settlement was finalized and the settlement funds released, and there is no dispute that such a discussion did take place on September 5, 2007.
7. There is also no dispute between the parties that the applicant told counsel for the respondents that she believed that the file regarding her human rights complaint had been closed by the Commission and that she believed that she had received correspondence to this effect.
8. Counsel for the respondents states that the applicant further said that she had no interest in pursuing the complaint and would like to withdraw the complaint. Counsel for the respondents further states that she and the applicant agreed that counsel would confirm this conversation by e-mail to the applicant, to which the applicant would send her agreement by reply, and that this information would be filed with the Commission. Counsel for the respondents states that in reliance upon these representations, she advised her client to release the settlement funds. All of this is disputed by the applicant, who says that these statements by respondents' counsel are not true.

9. Counsel for the respondents confirmed her discussion with the applicant by e-mail dated September 5, 2007. The applicant states that she does not recall receiving this e-mail. However, also provided to me is a copy of an e-mail from the applicant to counsel for the respondents dated September 19, 2007 which attaches the September 5, 2007 e-mail. While this latter document had not previously been filed with the Tribunal, I exercised my discretion to receive it into evidence after hearing submissions from the parties.
10. In the September 19, 2007 e-mail, the applicant does not dispute the record of the discussion between herself and counsel for the respondents as set out in the September 5, 2007 e-mail.
11. I find that the applicant did receive the September 5, 2007 e-mail and that the discussion between the applicant and counsel for the respondents did take place as recorded in that e-mail. In particular, I find that the applicant agreed to withdraw her human rights complaint and to confirm this in reply to an e-mail from respondents' counsel and that the respondents relied upon this representation in concluding the settlement with the applicant and releasing the settlement funds.
12. The Full and Final Release on its face releases all claims the applicant "ever had, may have had or now have by reason of any cause, matter or thing" and is not restricted to the matters raised in the Small Claims Court action. This is a standard form of full and final release that is commonly used to conclude court proceedings. I appreciate the applicant's statement that, as an unrepresented litigant, she read the final lines of the opening paragraph of the release that state "including any cause, matter or thing arising in connection with or related to the Action" and understood that the release only applied to the Small Claims Court action. But that

clearly is not what the document says. The applicant was given the opportunity to seek legal advice regarding the terms of the release, and chose not to do so. Her decision not to do so and to sign the release without such advice cannot be used as an excuse to avoid the clear language of the release.

13. Further, when the respondents became aware of the human rights complaint and raised it with the applicant before finalizing the settlement and releasing the settlement funds, I have found that the respondents acted on the basis of representations from the applicant that she understood the human rights file to have been closed, that she had no interest in pursuing the complaint and that she was prepared to withdraw the complaint. This was confirmed in writing with the applicant, and she did not dispute this at the time.
14. For all of these reasons, it is my determination that it would be an abuse of process to allow this Application to continue in the face of the clear language of the release and the express representations I have found were made by the applicant.
15. There is no question that this finding resolves the Application as against the two corporate respondents. The question remains as to whether it also resolves the Application as against the two personal respondents. The claims made by the applicant against the two personal respondents relate to conduct that they are alleged to have engaged in relation to their capacity as officers or former officers of the respondent condominium corporation, Mr. Beyrouly as a past director and Mr. Rowatt as past vice-president. The terms of the release extend not only to the two corporate respondents, but also to “their respective directors, officers, employees, agents etc”. In my view, this language is sufficient to encompass the claims against the two personal respondents in the

context in which they are made in the Application.

[5] As a result, the Application is dismissed in its entirety.

Dated at Toronto, this 27<sup>th</sup> day of January, 2009.

*“Signed By”*

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Mark Hart  
Vice-Chair