



CAT Practice Direction: Approach to Ordering Costs

Effective: October 1, 2026

The Chair of CAT issues Practice Directions to provide more information about the CAT's practice or procedures.

1. Introduction

This Practice Direction provides more information about the criteria the CAT may consider when deciding whether to order costs and the amount of costs to be ordered under Rule 44 of the CAT's Rules of Practice ["the Rules"].

The CAT's Rules address the topic of costs in Rule 44:

44. Recovery of Fees and Expenses

44.1 If a case is not resolved by settlement agreement or consent order and a CAT Member makes a final decision, the unsuccessful party will typically be required to reimburse the successful party for their CAT fees unless the Member decides otherwise.

44.2 The CAT may order a party to pay to another party all or part of their costs, including costs that were directly related to a party's behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense.

44.3 A party who fails to pay any amounts ordered to be paid to the CAT cannot file a new application and cannot maintain an existing case until all outstanding amounts have been paid.

In its most recent update of CAT's Rules, the CAT removed reference to a general constraint on ordering costs (Old Rule 48.2), and the general constraint on ordering compensation for time spent by a party (Old Rule 49). It is anticipated that the CAT Member will consider whether costs ought to be ordered by taking into account a number of factors applicable to the case before them.

2. Statutory Authority

The CAT's statutory authority is set out under the [Condominium Act, 1998](#) (the Act). The CAT has the authority to issue orders in accordance with section 1.44 of the Act, which includes:

1. An order directing one or more parties to the proceeding to comply with anything for which a person may make an application to the Tribunal.
2. An order prohibiting a party to the proceeding from taking a particular action or requiring a party to the proceeding to take a particular action.
3. An order directing a party to the proceeding to pay compensation for damages incurred by another party to the proceeding as a result of an act of non-compliance up to the greater of \$25,000 or the amount, if any, that is prescribed.
4. An order directing a party to the proceeding to pay the costs of another party to the proceeding.
5. An order directing a party to the proceeding to pay the costs of the Tribunal.
6. An order directing a corporation that is a party to a proceeding with respect to a dispute under subsection 55 (3) to pay a penalty that the Tribunal considers appropriate to the person entitled to examine or obtain copies under that subsection if the Tribunal considers that the corporation has without reasonable excuse refused to permit the person to examine or obtain copies under that subsection.
7. An order directing whatever other relief the Tribunal considers fair in the circumstances.

The Act also states that an order for costs (i.e., an order for #4 and/or #5 above) shall be determined in accordance with the CAT's Rules (See section 1.44(2)).

3. Factors Relevant to Deciding whether to Order Costs

When deciding whether to order a party to reimburse another party's costs under Rule 44, the CAT will balance the parties' rights and interests to arrive at a fair decision. Some of the factors that the Tribunal may consider include:

- (a) Whether a party's conduct was unreasonable, for an improper purpose, or caused a delay or expense;
- (b) Whether the case was filed in bad faith or for an improper purpose;
- (c) The conduct of all parties including the party requesting costs;
- (d) The potential impact an order for costs would have on the parties;
- (e) Whether the parties attempted to resolve the issues in dispute before the case was filed;
- (f) Whether a party has failed to follow or comply with a previous order or direction of the CAT;

- (g) The provisions of the condominium corporation's declaration, by-laws and rules (collectively referred to as the condominium corporation's "governing documents") and consider whether the parties had a clear understanding of their obligations and/or the potential consequences for contravening them;
- (h) Any other factors the CAT considers relevant.

4. Factors Relevant to Deciding Amount of Costs

If the CAT decides that an order for costs is appropriate, the CAT will also have to decide on the appropriate amount. Some of the factors that the tribunal may consider include:

- (a) Some or all of the factors listed above in section 3(a) – (h).
- (b) The nature and complexity of the issues in dispute in the case (e.g. are the costs appropriate and proportional nature and complexity case.)
- (c) Whether the costs are reasonable and were reasonably incurred (e.g. was there a good reason to incur the cost?).
- (d) The reliability of documentation to support the costs claimed.