

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

THE HONOURABLE)
MADAM JUSTICE G. MILLER)

FRIDAY, THE 5TH DAY
OF JUNE, 2015



[REDACTED] McFADYEN

Appellant (Responding Party)

-and-

[REDACTED] SMITH, [REDACTED] SMITH, [REDACTED] SMITH and [REDACTED] SMITH

Respondents (Moving Parties)

ORDER

THIS MOTION, made by the Respondents, [REDACTED] Smith, [REDACTED] Smith, [REDACTED] Smith and [REDACTED] Smith for the lifting of the automatic stay of the Order of Enza Buffa, Member, Landlord and Tenant Board dated February 10, 2015 or for the quashing of the appeal, security of the order, and security for costs of the appeal, was heard this day at Brampton, Ontario.

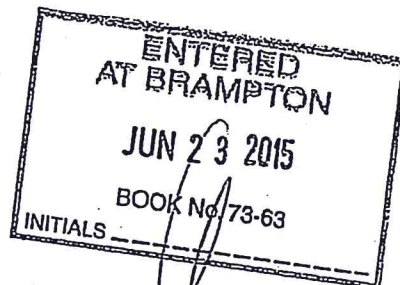
ON READING the notice of motion and motion record filed by the Respondents and on hearing the submissions of the lawyer for the Respondents and the submissions of the agent of the Appellant's lawyer with respect to the Appellant's request for adjournment,

1. THIS COURT ORDERS that the Appellant's request for adjournment is denied.
2. AND THIS COURT ORDERS that the automatic stay of the Order of Enza Buffa, Member, Landlord and Tenant Board dated February 10, 2015 in respect of the order for payment of \$9,313.42, which represents the amount of rent owing up to February 10, 2015, shall be lifted.
3. AND THIS COURT ORDERS the Appellant, [REDACTED] McFadyen shall pay to the Respondents the amount of \$9,313.42 within ten (10) days.

4. AND THIS COURT ORDERS that as long as the Appellant, [REDACTED] McFadyen continues to occupy the subject property, he shall pay to the Respondents a per diem amount of \$60.55, representing what he owes for rent, calculated from February 11th, 2015 while the appeal is pending.
5. AND THIS COURT ORDERS that the Appellant, [REDACTED] McFadyen shall pay to the Respondents the total per diem amount owing to date of \$6,902.70, within thirty (30) days of this Order.
6. AND THIS COURT ORDERS that the appellant [REDACTED] McFadyen shall pay to the Respondents an on-going per diem amount of \$60.55 commencing from June 5, 2015 for each day the subject property is occupied by [REDACTED] McFadyen, payable on the last day of each month until the appeal is heard.
7. AND THIS COURT ORDERS that the Appellant's failure to pay the amount set out at paragraphs 3, 5 & 6 above on the dates specified shall result in the appeal being quashed and the eviction order of the Landlord and Tenant Board being enforced.
8. AND THIS COURT ORDERS that the Respondents may attend before the Court, without notice should there be failure by the Appellant, [REDACTED] McFadyen to pay the amounts set out at paragraphs 3, 5 & 6 above on the dates specified to seek the quashing of the appeal and enforcement of the eviction order of the Landlord and Tenant Board. Any interest owing as per the Order of the Landlord and Tenant Board may be addressed at that time.
9. AND THIS COURT ORDERS that the Appellant [REDACTED] McFadyen shall pay to the Respondents cost of this motion, fixed at \$7,500.00, within ninety (90) days.

A. Gushue

(Signature of judge, officer or registrar)



MCFADYEN

-and-

**SMITH, SMITH,
SMITH and SMITH**

Appellant (Responding Party)

Respondents (Moving Parties)

Court File No. DC-15-24-00

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)**

Proceeding commenced at
Brampton

ORDER

June 5, 2015

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