

**CITATION:** Esther Gerstel Inc. v. Scott, 2025 ONSC 1448  
**COURT FILE NO.:** CV-23-00702603-0000  
**DATE:** 20250305

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** ESTHER GERSTEL INC., Plaintiff

**AND:**

DENISE MICHELLE SCOTT, Defendant

**BEFORE:** VERMETTE J.

**COUNSEL:** *Michael Suria*, for the Plaintiff

*Lungile Tinarwo*, for the Defendant

**HEARD:** February 24, 2025

**ENDORSEMENT**

[1] The Plaintiff, Esther Gerstel Inc. (“**EGI**”), brings a motion for summary judgment against the Defendant, Denise Michelle Scott, for payment of amounts due under a mortgage and for possession of the mortgaged property.

[2] The only issue in this case is the amount owing by Ms. Scott because she acknowledges that an amount is owing under the mortgage.

[3] In my view, this is an appropriate case for summary judgment. I find that the amounts claimed by EGI have been established, except for two renewal fees. Given that Ms. Scott is in default under the mortgage – and has been for a significant period of time – EGI is entitled to possession of the mortgaged property.

**A. FACTUAL BACKGROUND**

**1. The Mortgage**

[4] On or about August 17, 2021, EGI made a loan to Ms. Scott in the amount of \$815,000.00. The loan was secured against Ms. Scott’s residence in Toronto (“**Property**”) by way of a charge that was registered on title on August 17, 2021 (“**Mortgage**”). Ms. Scott was represented by a lawyer during the closing of the transaction.

[5] The Mortgage includes the following provisions, among others:

- a. Principal: \$815,000.00

- b. Calculation Period: monthly, not in advance
- c. Balance Due Date: August 12, 2022
- d. Interest Rate: 22.0% per annum
- e. Standard Charge Terms: 200033

[6] The Schedule to the Mortgage states, in part:

The lender fee payable by the borrower for this mortgage is \$40,000.00, payable on the Balance Due Date.

The sum of \$179,300.00, being interest only at the rate of 22.0% per annum is payable on the Balance Due Date, August 12, 2022, along with the Principal, Lender fees and all other costs, secured by this mortgage.

This mortgage is closed. The mortgagor may payout this mortgage at any time, however, any and all interest due until the end of the term must be paid.

[...]

Should the mortgagor not payout the mortgage in full on the Balance Due Date, the mortgagee may, in the mortgagee's absolute discretion, renew the said mortgage for a 3 month term and the mortgagee will charge the sum of \$119,900.00, including the lender fee and interest for the said 3 months.

[...]

[7] The Standard Charge Terms 200033 incorporated in the Mortgage include the following clauses, among others:

- 6. In case default shall be made in payment of any sum to become due for interest at the time provided for payment in the Charge, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, and both before and after default and judgement, shall bear interest at the rate provided for in the Charge. In case the interest and compound interest are not paid within the interest calculation period provided in the Charge from the time of default a rest shall be made, and compound interest at the rate provided for in the Charge shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the land.

[...]

9. The Chargee on default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice in writing given to the Chargor, enter on and lease the land or sell the land. Such notice shall be given to such persons and in such manner and form and within such time as provided in the *Mortgages Act*. [...] Provided further, that in case default be made in the payment of the principal amount or interest or any part thereof and such default continues for two months after any payment of either falls due then the Chargee may exercise the foregoing powers of entering, leasing or selling or any of them without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such persons and in such manner and form and within such time as so required by law. [...]
10. Upon default in payment of principal and interest under the Charge or in performance of any of the terms or conditions hereof, the Chargee may enter into and take possession of the land hereby charged and where the Chargee so enters on and takes possession or enters on and takes possession of the land on default as described in paragraph 9 herein the Chargee shall enter into, have, hold, use, occupy, possess and enjoy the land without the let, suit, hindrance, interruption or denial of the Chargor or any other person or persons whomsoever.

[...]

19. No extension of time given by the Chargee to the Chargor or anyone claiming under him, or any other dealing by the Chargee with the owner of the land or of any part thereof, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the money secured by the Charge, and the Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest notwithstanding that there may be subsequent encumbrances. It shall not be necessary to deliver for registration any such agreement in order to retain priority for the Charge so altered over any instrument delivered for registration subsequent to the Charge. Provided that nothing contained in this paragraph shall confer any right of renewal upon the Chargor.

[8] The Standard Charge Terms also provide that the terms that they contain can be modified by additions, amendments or deletions in the schedule.

[9] On August 12, 2021, Ms. Scott signed an acknowledgement that she had received a copy of the Standard Charge Terms 200033.

[10] The loan proceeds were applied as follows:

- a. \$40,000.00 was withheld by EGI and applied to pay a lender fee that Ms. Scott agreed to prepay.
- b. \$179,300.00 was withheld by EGI and applied to pay interest for the term of the loan that Ms. Scott agreed to prepay.
- c. \$141,057.87 was withheld by EGI and applied to the discharge of a previous third mortgage from EGI.
- d. The balance was used to pay certain fees and to discharge a previous second mortgage and various writs registered against Ms. Scott.

**2. Renewal of the Mortgage in August 2022**

[11] On August 9, 2022, EGI's principal and Ms. Scott exchanged text messages in which it was agreed that a three-month extension of the Mortgage would be granted for \$75,000.00. This amount was paid, as agreed upon.<sup>1</sup> The \$75,000.00 was applied as follows:

- a. a renewal fee of \$30,175.00; and
- b. prepaid interest of \$44,825.00 for the period between August 12 and November 12, 2022.

[12] Thus, the loan and Mortgage were renewed on August 12, 2022, extending the maturity date to November 12, 2022.

**3. Alleged subsequent renewals of the Mortgage**

[13] On November 4, 2022, EGI's principal contacted Ms. Scott by text message to inquire whether she was looking to pay out or renew the Mortgage on November 12, 2022. Ms. Scott responded that she would let him know as soon as possible. EGI's principal sent a number of follow-up text messages, but he never received a clear answer from Ms. Scott. Ms. Scott kept saying that she would let him know or that she had asked her ex-husband to call him. The last text message that is in the record before me is dated January 11, 2023.

[14] It is EGI's position that, both on November 12, 2022 and February 12, 2023, EGI had the absolute discretion to elect to renew the Mortgage for an additional three months, and it did so. According to EGI, it charged a renewal fee of \$30,000.00 for each of these two renewals, for a total of \$60,000.00. There is nothing in writing (including no text messages) evidencing a renewal agreement or a renewal charge of \$30,000.00 in either November 2022 or February 2023.

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<sup>1</sup> \$50,000.00 was paid on August 10, 2022, and the remaining \$25,000.00 was paid on August 23, 2022.

**4. Default under the Mortgage and commencement of the action**

[15] If the Mortgage was renewed on November 12, 2022 and February 12, 2023, the loan and Mortgage matured on May 12, 2023. If there were no such renewals, the loan and Mortgage matured on November 12, 2022. At no time has Ms. Scott made the payment(s) necessary to discharge the Mortgage. In fact, Ms. Scott has not made payments towards the principal and interest since December 12, 2022.

[16] This action was commenced on July 11, 2023.

[17] Ms. Scott served a Statement of Defence as a self-represented party on July 25, 2023. In her Statement of Defence, she complains that the documents that she has in her possession show a mortgage of \$800,000.00 instead of \$815,000.00, and that she does not have any other documentation regarding the Mortgage. She states that she could not fulfil her obligations under the Mortgage because of the inconsistencies in the documents. She also makes a number of other allegations.

**5. Motion for summary judgment**

[18] A few months after Ms. Scott served her Statement of Defence, EGI brought a motion for summary judgment. EGI's Notice of Motion is dated December 21, 2023 and the affidavit of EGI's principal in support of the motion is dated February 2, 2024.

[19] EGI's evidence is that the following amounts were owing as of February 1, 2024:

Principal as of November 12, 2022	\$ 815,000.00
Interest arrears from November 13, 2022 to February 1, 2024	\$ 248,071.19
November 2022 Renewal Fee	\$ 30,000.00
February 2023 Renewal Fee	\$ 30,000.00
Total as of February 1, 2024	\$1,123,071.19

[20] No payments have been received since February 1, 2024.

[21] EGI's counsel attended at Civil Practice Court on April 9, 2024. The endorsement of Papageorgiou J. on that date reads as follows:

This mortgage enforcement matter is scheduled for a summary judgment motion February 24, 2025. The original schedule were [sic] supposed to be served on March 1, 2024. The defendant has not provided its materials in accordance with the schedule. The defendant also did not attend at CPC court to speak to the matter.

The defendant is now in breach of the court ordered timetable.

The defendant should be aware that there will be no adjournment of the motion which has been scheduled.

The parties shall attend a case conference on May 24, 2024 where the defendant will explain their breach. It will be up to the case conference judge to determine whether a new schedule will be ordered and what that is.

If the defendant does not attend then the case conference judge will have the power to make orders including striking out the defendants' statement of defence and directing that this matter proceed by way of default judgment if the defendant is not going to participate.

Costs to the plaintiff of this attendance in the amount of \$500 to be paid within 7 days.

[22] There is no evidence before me as to whether any case conference was held on May 24, 2024, but Ms. Scott did subsequently file responding materials. Ms. Scott's response to the motion is contained in an affidavit sworn on June 9, 2024. Ms. Scott was still self-represented when she filed her affidavit. She retained counsel shortly before the hearing date.

[23] In her affidavit, Ms. Scott states the following, among other things:

- a. She acknowledges that "there is an amount owing in respect of the debt which is the subject of the statement of claim."
- b. She states that her problem with the Statement of Claim is the amount claimed by EGI.
- c. She asserts that she has continually asked for a complete accounting. However, she does not provide any supporting evidence of such requests (e.g., letters, e-mails, text messages, etc.).
- d. She repeats that she never received a complete copy of the mortgage documents that she signed.
- e. She states that she has no documentation for the renewals to February 12 and May 12, 2023.
- f. She points out that there is no evidence or documentation showing that she received credit for two payments that she made, with respect to which she attaches supporting documents: (1) a payment in the amount of \$50,000.00 made on August 10, 2022; and (2) a payment in the amount of \$25,000.00 made on August 23, 2022.

## **B. DISCUSSION**

### **1. General principles applicable on a motion for summary judgment**

[24] On a motion for summary judgment, the court must first determine if there is a genuine issue requiring a trial based only on the evidence in the motion record, without using the fact-finding powers set out in Rules 20.04(2.1) and (2.2) of the *Rules of Civil Procedure*. There will be no genuine issue requiring a trial if the summary judgment process: (a) provides the court with the evidence required to adjudicate the dispute fairly and justly, and (b) is a timely, affordable and proportionate procedure. See *Hryniak v. Mauldin*, 2014 SCC 7 at para. 66 (“**Hryniak**”).

[25] If there appears to be a genuine issue requiring a trial, the court should then determine if the need for a trial can be avoided by using the powers under Rules 20.04(2.1) and (2.2), i.e., weighing the evidence, evaluating the credibility of deponents, drawing any reasonable inference from the evidence or ordering that oral evidence be presented. The court may, at its discretion, use those powers, provided that their use is not against the interest of justice. Their use will not be against the interest of justice if they will lead to a fair and just result and will serve the goals of timeliness, affordability and proportionality in light of the litigation as a whole. See *Hryniak* at para. 66.

[26] While summary judgment must be granted if there is no genuine issue requiring a trial, the decision to use either of the expanded fact-finding powers or to call oral evidence is discretionary. See *Hryniak* at para. 68 and Rules 20.04(2), 20.04(2.1) and 20.04(2.2) of the *Rules of Civil Procedure*.

[27] A party moving for summary judgment has the evidentiary burden of showing that there is no genuine issue requiring a trial with respect to a claim or defence: Rule 20.04(2)(a). The burden shifts to the responding party to prove that its claim or defence has a real chance of success only after the moving party has discharged its evidentiary burden of establishing that there is no genuine issue requiring a trial. See *Sanzone v. Schechter*, 2016 ONCA 566 at para. 30 (“**Sanzone**”) and *Kinectrics Inc. v. FCL Fisker Customs & Logistics Inc.*, 2020 ONSC 6748 at para. 35.

[28] Each party must put its best foot forward to establish whether or not there is a genuine issue requiring a trial: see *Ramdial v. Davis*, 2015 ONCA 726 at para. 27 (“**Ramdial**”). The court is entitled to assume that the record contains all the evidence that the parties would present at trial: see *Toronto-Dominion Bank v. Hylton*, 2012 ONCA 614 at para. 5 and *Broadgrain Commodities Inc. v. Continental Casualty Company*, 2018 ONCA 438 at para. 7. Thus, if the moving party meets the evidentiary burden of producing evidence on which the court could conclude that there is no genuine issue of material fact requiring a trial, the responding party must either refute or counter the moving party’s evidence or risk a summary judgment: see *Soliman v. Bordman*, 2021 ONSC 7023 at para. 133. A responding party has an obligation to “lead trump or risk losing” and cannot rely on allegations or denials in the pleadings; it must present evidence of specific facts demonstrating that there is a genuine issue requiring a trial: see *Ramdial* at paras. 28 and 30, and *Sylvite v. Parkes*, 2020 ONSC 5569 at para. 16. A self-serving affidavit is not sufficient in

itself to create a triable issue in the absence of detailed facts and supporting evidence: see *Guarantee Co. of North America v. Gordon Capital Corp.*, [1999] 3 S.C.R. 432 at para. 31.

[29] The principles governing the admissibility of evidence on a summary judgment motion are the same as those that apply at trial, except for the limited exception of permitting an affidavit made on information and belief found in Rule 20.02(1) of the *Rules of Civil Procedure*. See *Sanzone* at para. 15.

## **2. Whether this is an appropriate case for summary judgment**

[30] In my view, this is an appropriate case for summary judgment. This case is not complex. The only issue is the amount owing by Ms. Scott. EGI has provided consistent and reliable evidence about the Mortgage and related issues. I find that there is sufficient evidence before the Court to make a fair and just determination on the merits. Further, providing a timely and proportionate procedure to the parties is an important consideration in this case given, among other things, the very limited scope of the issue to be determined and the significant interest that continues to accrue.

[31] While Ms. Scott complains in her Statement of Defence and her affidavit that she never received a complete copy of the mortgage documents that she signed, this is insufficient to raise a genuine issue requiring a trial. As stated above, unsupported and self-serving allegations are insufficient to create a triable issue because the parties have an obligation to put their best foot forward. Ms. Scott has not put in evidence any supporting documentation showing that she has asked for documents that have not been provided to her. Further, this action was commenced more than 1.5 years ago, and Ms. Scott has known about this motion for summary judgment for more than a year. If Ms. Scott had wanted to take steps to obtain documents, there was ample time for her to do so. Ms. Scott has failed to counter EGI's evidence with reliable evidence and to present evidence of specific facts demonstrating that there is a genuine issue requiring a trial.

## **3. Amount owed by Ms. Scott for principal and interest**

[32] I accept EGI's evidence that the amount owing by Ms. Scott includes the principal of \$815,000.00 and compound interest from November 13, 2022 to February 1, 2024 in the amount of \$248,071.19. Based on section 6 of the Standard Charge Terms of the Mortgage, I am satisfied that EGI is entitled to charge compound interest. There is no evidence that Ms. Scott has ever made any payment towards the \$815,000.00 principal. There is also no evidence that Ms. Scott has made any payment towards interest after November 12, 2022.<sup>2</sup>

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<sup>2</sup> EGI's evidence, which I accept, is that interest was prepaid under the original Mortgage and under the first extension of the Mortgage on August 12, 2022 which extended the maturity of the Mortgage to November 12, 2022.

[33] The only evidence of payments made by Ms. Scott that is before this Court is the evidence of the two payments that Ms. Scott made in August 2022 in the total amount of \$75,000.00 (\$50,000.00 + \$25,000.00). However, the text messages between Ms. Scott and EGI's principal show that these payments were made in relation to the three-month extension of the Mortgage that was granted in August 2022. The text messages also show that the \$75,000.00 amount was agreed upon by both Ms. Scott and EGI's principal.

[34] In light of the foregoing, I conclude that there is no genuine issue requiring a trial with respect to the amounts of principal and interest owing. EGI has met its evidentiary burden of producing evidence establishing these amounts, and Ms. Scott has failed to counter this evidence.

[35] Thus, as of February 1, 2024, Ms. Scott owed \$1,063,071.19 (principal of \$815,000.00 and interest in the amount of \$248,071.19), and interest continues to accrue.

#### 4. Renewal fees

[36] EGI also seeks to be paid two renewal fees in the amount of \$30,000.00, for a total of \$60,000.00. It is EGI's position, based on a paragraph in the schedule to the Mortgage, that it had absolute discretion to elect to renew the Mortgage for an additional three months and to charge a \$30,000.00 fee for each renewal. According to EGI, it could do so for an unlimited number of times and without even telling Ms. Scott about the renewals and the renewal fees.

[37] For ease of reference, I reproduce again the relevant paragraph of the schedule to the Mortgage:

Should the mortgagor not payout the mortgage in full on the Balance Due Date, the mortgagee may, in the mortgagee's absolute discretion, renew the said mortgage for a 3 month term and the mortgagee will charge the sum of \$119,900.00, including the lender fee and interest for the said 3 months. ("**Schedule Renewal Clause**")

[38] The Schedule Renewal Clause adds to, or modifies, section 19 of the Standard Charge Terms (reproduced in paragraph 7 above) which provides that "... the Charge may be renewed **by an agreement in writing** at maturity for any term with or without an increased rate of interest..." [Emphasis added.] As stated above, the terms contained in the Standard Charge Terms can be modified by additions, amendments or deletions in the schedule.

[39] As I found above, EGI renewed the Mortgage for the first time on August 12, 2022. At that time, EGI charged Ms. Scott \$75,000.00 for that renewal, which consisted of a renewal fee in the amount of \$30,175.00 and prepaid interest. While no formal agreement was prepared for this renewal, the renewal and the \$75,000.00 fee are documented in written text messages and it is clear from the text messages that Ms. Scott agreed to the renewal and the fee.

[40] While the August 12, 2022 renewal has been established, there is no evidence supporting the renewals that allegedly took place on November 12, 2022 and February 12, 2023. EGI relies solely on the Schedule Renewal Clause in support of its position. It is therefore necessary to interpret the Schedule Renewal Clause.

[41] The Supreme Court of Canada set out the current approach to contractual interpretation in *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 (“*Sattva*”). In a nutshell, courts are to read a contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract. While the meaning of words is often derived from a number of contextual factors, including the purpose of the agreement and the nature of the relationship created by the agreement, the surrounding circumstances must never be allowed to overwhelm the words of that agreement. Thus, even though the surrounding circumstances are relied upon in the interpretive process, courts cannot use them to deviate from the text such that the court effectively creates a new agreement. Relevant surrounding circumstances consist only of objective evidence of the background facts at the time of the execution of the contract, that is, knowledge that was or reasonably ought to have been within the knowledge of both parties at or before the date of contracting. See *Sattva* at paras. 47-48, 57-58 and *Corner Brook (City) v. Bailey*, 2021 SCC 29 at para. 20.

[42] There is no evidence before me regarding the “surrounding circumstances known to the parties at the time of formation of the contract” that would be relevant to the interpretation of the Schedule Renewal Clause. However, reading the Mortgage as a whole and giving the words used their ordinary and grammatical meaning, I find that EGI was not entitled to charge renewal fees of \$30,000.00 on November 12, 2022 and February 12, 2023, without Ms. Scott’s knowledge and consent. I come to this conclusion for the following reasons:

- a. The Schedule Renewal Clause does not address one way or the other the issue of whether the renewal must be in writing. Given this silence, section 19 of the Standard Charge Terms applies, and the Mortgage had to be renewed by an agreement in writing. This was not done for the alleged renewals on November 12, 2022 and February 12, 2023. There was neither an agreement, nor anything in writing.
- b. The words “in the mortgagee’s absolute discretion” in the Schedule Renewal Clause must be interpreted in light of section 19 of the Standard Charge Terms, more particularly the following words at the end of section 19: “Provided that nothing contained in this paragraph shall confer any right of renewal upon the Chargor.” In my view, the words “in the mortgagee’s absolute discretion” mean that the mortgagee has the absolute discretion to agree or not to agree to renew the Mortgage. However, it does not mean that the mortgagee has the absolute discretion to impose a renewal and a renewal fee on the mortgagor, without the latter’s consent and knowledge. Such an interpretation would be contrary to the requirement of “an agreement in writing” in section 19 of the Standard Charge Terms. Further, it would not make sense for parties to agree to such a one-sided clause given, among other things, its obvious unfairness to the mortgagor. An example of such unfairness would be the mortgagor being found in default under a mortgage for not having paid a costly renewal fee that they were not even aware of and never agreed to. In contrast, there is no unfairness to the mortgagee if an agreement to renew is required because if the mortgagor does not agree to a renewal

and/or renewal fee, the mortgagee has the contractual right to require the mortgagor to pay out the mortgage in full on the balance due date and, if payment is not made, the mortgagee can exercise its contractual rights in the event of a default under the mortgage.

- c. Even if I were to agree with EGI's position that the Schedule Renewal Clause gives EGI the right, in its absolute discretion, to renew the Mortgage for an additional three months and charge a \$30,000.00 renewal fee without telling Ms. Scott about it, I would not agree with EGI that the Schedule Renewal Clause allows it to so renew the Mortgage for an unlimited number of times. The Balance Due Date is a defined term in the Mortgage, i.e., August 12, 2022. There is no reference in the Schedule Renewal Clause to a new balance due date or to multiple renewals. Further, the Schedule Renewal Clause includes a specific amount for the lender fee and interest for three months (\$119,900.00), and it could not be assumed that the amount of interest would be the same at the time of subsequent renewals. Thus, even if I were to agree with EGI's position that it had the absolute discretion to renew the Mortgage for an additional three months under the Schedule Renewal Clause, that right was exercised on August 12, 2022 for \$75,000.00 and was spent.

[43] Given the parties' obligations to put their best foot forward and the fact that contractual interpretation is an exercise based on objective, not subjective, evidence, I find that there is no genuine issue requiring a trial with respect to the issue of whether renewal fees could be charged to Ms. Scott on November 12, 2022 and February 12, 2023, and that this Court has the evidence required to adjudicate this issue fairly and justly.

[44] Accordingly, I find that EGI could not charge \$60,000.00 to Ms. Scott for "renewals" of the Mortgage on November 12, 2022 and February 12, 2023, and that this amount is not owed by Ms. Scott. Thus, as of February 1, 2024, Ms. Scott owed \$1,063,071.19, and interest continues to accrue.

## **5. Order for possession of the Property**

[45] Given that Ms. Scott has been in default under the Mortgage for a significant period of time, EGI is entitled to possession of the Property under the terms of the Mortgage, including section 10 of the Standard Charge Terms (reproduced in paragraph 7 above).

[46] EGI also seeks leave to issue a writ of possession with respect to the Property. I am satisfied that the conditions set out in Rule 60.10 of the *Rules of Civil Procedure* have been met, in particular the requirement that all persons in actual possession of any part of the Property have received sufficient notice of this motion. Among other things: (a) EGI's Notice of Motion and Factum were served on the Property's "Occupants"; (b) no one contacted EGI or its lawyer after service of the materials; (c) EGI has adduced evidence that Ms. Scott resides at, and is in possession of, the Property; and (d) this evidence has not been contradicted in any way by Ms. Scott.

[47] Consequently, EGI is entitled to leave to issue a writ of possession. However, it is my view that it is appropriate to give one last chance to Ms. Scott to pay what is owing under the Mortgage before EGI takes possession of the Property. Ms. Scott's counsel advised the Court at the hearing of the motion that Ms. Scott has apparently obtained financing sufficient to pay the Mortgage, and that the only issue to be resolved before payment is made is the determination of the amount owing. This issue has now been determined. As acknowledged at the hearing, it would be in the interest of all parties if the Mortgage was fully paid without the need to sell the Property. As a result, while I grant leave to issue a writ of possession, I order EGI not to provide the writ to the Sheriff and not to start the process of entering and taking possession of the Property until after 45 days following the release of this decision, i.e., after April 19, 2025. If Ms. Scott fully pays the amounts owing under the Mortgage before then, there will be no need to take possession of the Property, and no basis to do so.

**C. CONCLUSION**

[48] The motion for summary judgment is granted. Ms. Scott is ordered to pay to EGI the outstanding amount of the loan, \$815,000.00, plus accrued and unpaid interest from November 13, 2022 to February 1, 2024 in the amount of \$248,071.19, plus interest at 22% per annum compounded monthly from February 2, 2024 up to the date of this Judgment (March 5, 2025). I ask that EGI update the interest figure in its draft Judgment so as to include interest up to the date of this Judgment. When the draft Judgment has been approved as to form and content by counsel for Ms. Scott, EGI's counsel should send it to my assistant for my review and signature, along with a document showing an updated calculation of the interest owing. If there are any issues between the parties, counsel should contact my assistant to request a case conference before me.

[49] Post-judgment interest shall be at the same rate, i.e., 22% per annum compounded monthly. I am satisfied that post-judgement interest should be at the rate specified in the Mortgage: see subsections 128(4)(g) and 129(5) of the *Courts of Justice Act*, R.S.O 1990, c. C.43 and *Lundy's Regency Arms Corp. v. Niagara Hospitality Hotels Inc.*, 2016 ONSC 4199 at paras. 12-13.

[50] In addition, I order that EGI is entitled to possession of the Property and leave is granted to issue a writ of possession with respect to the Property. However, I order EGI not to provide the writ of possession to the Sheriff and not to start the process of entering and taking possession of the Property until after 45 days following the release of this decision, i.e., after April 19, 2025.

[51] I strongly urge the parties to try to agree on the issue of costs. If costs cannot be agreed upon, EGI shall deliver submissions of not more than three pages (double-spaced), excluding the costs outline or bill of costs, by March 24, 2025. Ms. Scott shall deliver her responding submissions (with the same page limit) by April 7, 2025. The submissions of all parties shall also be sent to my assistant by e-mail and uploaded onto Case Center.

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**Vermette J.**

**Date: March 5, 2025**