

- a. judgment on the covenant as well as judgment in respect of the claim for possession be granted against the Defendant 2477826 ONTARIO INC (“246 ON”);
- b. an order for possession of the mortgaged property;
- c. judgment against the Defendant of \$178,889.62 plus interest at the rate of \$54.52 per day from January 26, 2026 to the date of the judgement;
- d. post-judgment interest; and
- e. costs.

[4] The Plaintiff began this action in May 2025 against the personal and corporate Defendants. The personal Defendant, Dwayne Linton, served a Statement of Defence on June 27, 2025. The record shows that Mr. Linton was aware that, under the Rules, and except with leave of the court, a corporate party must be represented by a lawyer. No such leave was granted. Mr. Linton did not retain counsel for the corporate Defendant.

[5] At Civil Practice Court on October 14, 2025, Justice Callaghan set an extended schedule for the delivery of material, in part, to allow the Defendants to retain counsel. Defendants were to file their material by November 14, 2025. They did not.

[6] By the time of another Civil Practice Court appearance on January 7, 2026, the Defendants had not filed any motion materials. Mr. Linton advised the court that he had filed an Assignment in Bankruptcy on January 6, 2026.

[7] The presiding judge, Justice Merritt, noted that “Mr. Linton is not making any submissions on behalf of the company.” Merritt, J. ordered the summary judgment motion to proceed as an opposed motion in writing.

[8] The Plaintiff advises the court that it is no longer proceeding against Mr. Linton. Therefore, throughout these reasons, unless otherwise specified, the term “Defendant” refers to the corporation 246 ON.

[9] Accordingly, the questions for the court are:

- a. Is there a genuine issue for trial on whether the Defendant defaulted on the mortgage or on any related payments in relation to the Property?
- b. Is the Plaintiff entitled to the relief that it seeks?

[10] Briefly, I find that this case is appropriate for summary judgment. There is no genuine issue for trial on whether the Defendant is in default of the mortgage as well as related payments. Based on the facts as pleaded in the Statement of Claim, the supporting materials, and the lack of any defence by 246 ON, the Plaintiff is entitled to the relief that it seeks.

BACKGROUND

[11] The Plaintiff is a corporation under the laws of Ontario with its head office in the City of Vaughan. The Plaintiff's President is Jasvir Dhillon.

[12] The Defendant 246 ON is a corporation under the laws of Ontario with its head office in the City of Brampton. Dwayne Linton is the directing mind of 426 ON and is the Guarantor of 246 ON's obligations under the mortgage.

[13] On or about February 27, 2024, the Plaintiff loaned \$150,000.00 to 246 ON for the security of a third mortgage on the property municipally known as 33 Shore Breeze Drive, Unit 2605, in the City of Toronto. The mortgage was registered in the Registry Office in the Land Titles Division of Toronto on the same day.

[14] The mortgage provides for the payment of principal and interest as follows:

Item	Due date
Payment Date and Period	1 st day of each month
Amount of each Payment	\$1,500.00 (interest only)
First Payment Due	April 1, 2024
Last Payment Due	March 1, 2025
Balance Due Date	March 1, 2025

[15] Paragraph 10 of the mortgage's Standard Charge Terms provides:

"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...".

[16] Among other things the mortgage also provides for:

- a. An administrative fee of \$250.00 for each cheque that is not accepted by the bank;
- b. A renewal fee of \$7,000.00;
- c. An administrative fee of \$1,000.00 for any payment the Chargee is required to make to any entity on behalf of the Chargor; and

- d. In the case of default, the Chargee may pay all insurance premiums, taxes, rates, levies, charges, assessments, utility and heating charges; and all such amounts shall be added to the principal amount and shall be payable forthwith with interest at the rate provided for in the Charge.

[17] After the initial term of the mortgage matured on March 1, 2025, the parties agreed to a one-year extension. That triggered the renewal fee of \$7,000 paid in \$625.00 installments on the first day of each month between April 1, 2025 and March 1, 2026.

[18] By way of presenting three cheques not honoured by the bank, the Defendant 246 ON defaulted on:

- a. the mortgage on April 1st and May 1st, 2025; and
- b. the \$625 renewal fee payment on May 1, 2025.

[19] As a result, the Defendant:

- a. has an outstanding renewal fee balance of \$6,375; and
- b. has not made an interest payment on the mortgage since March 1, 2025.

[20] The Plaintiff sent a demand letter on May 1, 2025. When the Defendants failed to put the mortgage into good standing the Plaintiff commenced an action.

[21] The Plaintiff has a related corporation, 2713601 Ontario Inc., which is also in the mortgage lending business. The Plaintiff's solicitor mistakenly commenced the action against the Defendant under the former corporate name. When the error was discovered, that action was discontinued and the Plaintiff commenced the within action by 923944 Ontario Ltd. against the Defendants.

[22] In accordance with the terms of the mortgage, because the Defendant tendered three bad cheques the Plaintiff seeks an administration fee of \$750.00.

[23] After the Defendant further defaulted on the mortgage on April 29, 2025, the Plaintiff forwarded \$3,173.56 to the first mortgagee on the property, Equitable Bank. The Plaintiff has added that amount to the mortgage debt and interest on that sum at the rate of 12.0% per annum from the 29th day of April, 2025 to the date of payment. In accordance with the terms of the mortgage, the Plaintiff also seeks an administration fee of \$1,000.00.

[24] Since issuing the Statement of Claim the Plaintiff has made two further payments to the first mortgagee of \$1,555.02 on each of June 3 and June 27, 2025 so that the first mortgagee would not commence default mortgage proceedings.

[25] The Defendant is also in default of payment of common expenses to the condominium corporation in the sum of \$4,140.96 as of July 31, 2025.

[26] At the time of the Statement of Claim, the amount owing under the mortgage was \$165,832.00. As of December 1, 2025, accrued interest was \$9,949.98.

ANALYSIS

[27] The facts as I find them on a balance of probabilities are contained in the following analysis.

Is there no genuine issue for trial on whether the Defendant defaulted on the mortgage and on any related payments in relation to the Property?

The Law

[28] Rule 20.04(2)(a) provides: “The court shall grant summary judgment if the court is satisfied that there is no genuine issue requiring a trial with respect to a claim or defence”.

[29] Therefore, to obtain summary judgment in this case, the Plaintiff must first establish that there is no genuine issue for trial on enforcement of the mortgage and associated relief. The onus then shifts to the responding party, 246 ON, to prove that its claim has a real chance of success: *Sanzone v. Schechter*, 2016 ONCA 566, 402 DLR (4th) 135, at para. 30. The court must take a hard look at the evidence. While the onus is on the moving party to establish there is no issue requiring a trial, the responding party must “lead trump or risk losing”: *1061590 Ontario Ltd. v. Ontario Jockey Club*, 1995 CanLII 1686 (ON CA), 1995 CarswellOnt 63 (Ont. C.A.), at para. 36.

[30] There is no genuine issue requiring a trial, on a summary judgment motion, if the court can reach “a fair and just determination on the merits”: *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87 at para. 49. Such a determination is warranted if the process (a) allows the court to make the necessary findings of fact, and to apply the law to the facts and (b) is a proportionate, more expeditious and less expensive means to achieve a just result.

[31] In determining whether there is a genuine issue for trial, a court may weigh the evidence, evaluate credibility, and draw reasonable inferences from that evidence: Rule 20.04 (2.1). The court can assume that the record contains all the evidence the parties would present if the matter proceeded to trial.

[32] The court should use its enhanced powers and decide a motion for summary judgment only where it leads to “a fair process and just adjudication”: *Ang v. Lin*, 2023 ONSC 4446, at para. 15, citing *Mason v. Perras Mongenais*, 2018 ONCA 978, at para. 44, and *Eastwood Square Kitchener Inc. v. Value Village Stores, Inc.*, 2017 ONSC 832, at paras. 3-6 (and cases cited therein).

Application

[33] This case is a straightforward issue of mortgage default that is appropriate for summary judgment. The Plaintiff’s materials allow me to reach a fair and just determination on the merits.

Based on the record before me, I can make the necessary findings of fact and apply the law to those facts.

[34] The corporate Defendant has not filed any materials for this motion, despite being given additional time to do so. Where a party fails to file an affidavit in response to a motion for summary judgment, the court is entitled to infer that the responding party was unable to attest to the facts required to make out its claim: *Fasken v. Time/System Int. APS* (1986), C.P.C. (2d) 1(Ont. H.C.) at paras. 2 and 6.

[35] The Plaintiff argues that the Defendants' primary motivation has been to delay the proceedings. I agree. The only Statement of Defence is from the personal defendant Mr. Linton. In it, while Mr. Linton makes a blanket denial of the allegations in the Statement of Claim, he provides no particulars to contradict the asserted defaults in the terms of the mortgage or related payments. Instead, Mr. Linton complains about the prior pleadings which named the wrong numbered company as the moving party. Mr. Linton says this error raises concerns about the Plaintiff's good faith. Mr. Linton also says that the mortgage was "predatory" notwithstanding that, at the time, he was represented by counsel. I find that this additional context suggests that the Defendants have used delay as a tactic to avoid these proceedings, which is an additional reason to conclude that summary judgment is appropriate.

Is the Plaintiff entitled to the relief that it seeks?

[36] The Plaintiff seeks, among other things, possession of the mortgaged property and judgment on the covenant.

[37] Pursuant to r. 60.10, "the court may grant leave to issue a writ of possession only when it is satisfied that all persons in actual possession of any part of the land have received sufficient notice of the proceeding in which the order was obtained to have enabled them to apply to the court for relief." See also *Kim (Re)*, 2022 ONSC 2731 at para 19.

[38] As the corporate Defendant never retained counsel, there is no defence to consider.

[39] I am satisfied that the Plaintiff has established liability based upon the following deemed admissions from the Statement of Claim, together with the evidence from the affidavit of Jasvir Dhillon sworn September 15, 2025:

- a. The parties entered into an initial mortgage for \$150,000, one of the charge terms for which provides for a right of possession in the event of a default in payment of principal and interest;
- b. The parties agreed to an extension of the mortgage, one of the terms for which was a renewal fee of \$7,000.00;
- c. The Defendant defaulted on the mortgage and the renewal fee;

- d. The Plaintiff was forced to make good on the missed payments and other expenses for the property;
- e. The Plaintiff provided notice of its intention to seek possession.

[40] Therefore, the facts as pleaded give rise to the requested relief of payment of the monies owing (\$178,889.62 together with interest at the rate of 12.0% per annum) and an order for possession.

[41] The Plaintiff filed a bill of costs of \$8,437.50 plus HST for a total of \$9,534.37. The bill shows 12.5 hours of work by Plaintiff's counsel who has 50 years of experience and bills \$675.00 an hour. Having reviewed the work outlined which includes three appearances at Civil Practice Court, preparation of a Motion Record, and preparation of a Factum, I find the costs reasonable. The Defendant shall pay the Plaintiff's full costs of \$9,534.37 inclusive of disbursements and HST.

ORDER

[42] In conclusion, I make the following order:

- a. The Plaintiff's motion for summary judgment against the Defendant 2466826 Ontario Ltd. is granted.
- b. The Defendant shall pay costs of this action in the amount of \$9,534.37, inclusive of disbursements and HST, within 30 days.
- c. The Plaintiff's draft Order submitted for this motion shall issue, subject to the above provisions.

Mathen J.

CITATION: 923944 ON. Ltd v. 2466826 ON. Ltd. et al, 2026 ONSC 981
COURT FILE NO.: CV-25-00744850-0000
DATE: 20260217

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

923944 ONTARIO LTD.

Plaintiff

– and –

2466826 ONTARIO INC. and DWAYNE LINTON

Defendants

REASONS FOR JUDGMENT

Mathen, J.

Released: February 17, 2026