

**CITATION:** Medallion Corporation v. Bon Hillier, 2023 ONSC 3653  
**DIVISIONAL COURT FILE NO.:** 107/22  
**DATE:** 20230614

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
DIVISIONAL COURT**

**Sachs, Sutherland & Schabas JJ.**

<b>BETWEEN:</b>	)	
	)	
MEDALLION CORPORATION	)	<i>Kristin A. Ley</i> , for the Landlord/Respondent
	)	
	)	
Landlord/Respondent	)	
	)	
<b>– and –</b>	)	
	)	
ISAAC BON HILLIER AND MARITZA ORTIZ	)	<i>Self-represented</i> Appellants
	)	
Tenants/Appellants	)	
	)	<i>Valerie Crystal</i> , for the Landlord and Tenant Board
	)	
	)	
	)	<b>HEARD at Toronto by videoconference:</b>
	)	June 14, 2023

**SACHS J. (Orally)**

**RULING RE ADJOURNMENT**

[1] The issue before us is whether the appellants should be granted further time to file the materials required to perfect this appeal. The appellant, Mr. Bon Hillier, concedes that the necessary materials have not been filed. The appellants, who are self-represented, state that their failure to file these materials is due to the fact that Mr. Bon Hillier suffers from a traumatic brain injury and that as a result of this injury, he requires accommodation and assistance to comply with this court’s directions concerning the filing of the materials.

[2] The respondent landlord opposes the appellants’ request for further time to prepare and file their materials.

[3] In her endorsement of May 29, 2023, O’Brien J. sets out a brief history of this appeal. It discloses that Matheson J. held a case conference at which she established is scheduled for the

hearing of the appeal. That schedule directed the appellants to file their materials by August 8, 2022. The appeal was scheduled to be heard on February 22, 2023. Since the appellants failed to perfect as directed, a further case conference was held before O'Brien J. on January 27, 2023.

[4] At that case conference, the appellant, Mr. Bon Hillier, advised the court that he had failed to file the appellants' materials as directed because he had been incarcerated during the period from October 6 to December 13, 2022, and was recovering from trauma. In spite of the fact that no material was filed to support Mr. Bon Hillier's position, O'Brien J. vacated the February 22, 2023 appeal date and allowed the appellants further time to file their material. They were directed to file the necessary materials and to perfect their appeal by February 21, 2023. O'Brien J. also directed that if this was not done, the landlord could bring a motion in writing to lift the stay pending appeal. The appeal was scheduled to be heard today.

[5] The appellant Mr. Bon Hillier has now come forward with another explanation for his failure to file the materials necessary to perfect this appeal - his traumatic brain injury. This issue or the need for accommodation due to his traumatic brain injury has never been raised before this court prior to today's hearing. The appellants have requested accommodation from this court, but these requests have been based on their articulated fears of harassment. In response to these expressed fears, the hearing was scheduled to be heard by Zoom.

[6] In view of the fact that this is the second request to adjourn due to a failure to file materials, we decline to grant the request. In our view, if the appellant Mr. Bon Hillier had a traumatic brain injury that necessitated accommodation from this court, that issue should have been raised well before today. The fact that it was not, combined with the fact that the appellant Mr. Bon Hillier produced no material before us to establish his need for accommodation on this basis, causes us to conclude that it would not be in the interest of justice to delay this matter any further.

[7] In view of this, we are going to proceed today.

### **DECISION RE APPEAL**

[8] The appellants assert that their appeal should be allowed because the order of the Board terminating their tenancy was granted on an "ex parte" basis and was procedurally unfair.

[9] The history of this proceeding before the Board and the reasons why the hearing proceeded in the absence of the Appellants are set out in detail in the Board's Review Order dated February 17, 2022. That history reveals that the Appellants requested that the Board adjourn the initial hearing that had been scheduled to hear the respondent landlord's termination application. That request was granted, and a new hearing date was scheduled.

[10] Prior to the new hearing date, the appellants made a second request to adjourn the hearing. That request was denied. However, the appellants were told that they could request an adjournment at the hearing if they felt that this was necessary.

[11] On the date of the hearing, the appellants did not attend, and the hearing proceeded in their absence.

[12] We agree with the Review Order that there is no basis for finding that the Board unreasonably exercised its discretion in denying the appellants' second adjournment request. We also agree that there was no satisfactory explanation for why the appellants did not attend on the hearing date to make a further request for an adjournment, if they felt that such an adjournment was necessary. In view of this, and in view of the fact that the Board has considerable latitude to control its own process, we find that there is no merit to the appellants' submission that they were denied procedural fairness.

[13] For these reasons, the appeal is dismissed.

**COSTS**

[14] In view of the appellants' circumstances, we are fixing costs payable to the respondent landlord at \$500.00. This amount is to be paid within 60 days.

  
\_\_\_\_\_  
Sachs J.

I agree

  
\_\_\_\_\_  
Sutherland J.

I agree

  
\_\_\_\_\_  
Schabas J.

**Date of Oral Reasons for Judgment:** June 14, 2023

**Date of Written Release:** June 20, 2023

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Sachs, Sutherland and Schabas JJ.

**BETWEEN:**

MEDALLION CORPORATION

– and –

ISAAC BON HILLIER AND MARITZA ORTIZ

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**ORAL REASONS FOR JUDGMENT**

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**SACHS J.**

**Date of Oral Reasons for Judgment:** June 14, 2023

**Date of Written Release:** June 20, 2023