

2008 CarswellOnt 10840
Ontario Superior Court of Justice (Divisional Court)

Dascalu v. Bygott

2008 CarswellOnt 10840, 173 A.C.W.S. (3d) 599

Bogdan Dascalu, Landlord and John Bygott and Leigh Ulrich, Tenants

Low J

Judgment: August 14, 2008
Docket: 319/08

Counsel: James S. Marks
John Bygott
Leigh Ulrich

LOW J.:

MOTION RECORD

Aug 11/08

1 The Tenant seeks an adj't. The Landlord has served materials in accordance with the Rules. The Tenants state they were away from home and rec'd materials only on Saturday Aug 9. Over the objection of the Landlord, the motion was adj'd to Thursday Aug 14 to be heard by me. Costs to Landlord fixed at \$500 payable in 7 days.

Aug 14/08

1 Order to go as asked at para. (a) and (b) of the notice of motion.

2 It is an undisputed fact that the appellants have not paid rent since Nov. 15/2007. It is an undisputed fact that the appellants did not comply with an interim order of the tribunal. There is jurisdiction for an order of the kind requested to be made under s.174(2) of the *Courts of Justice Act*, and in my view, the facts of the case warrant such an order. As was the case in *Wismer Markham Developments Inc v Mac Donald*, [2006] OJ. No. 1374, these appellants have been living in the Landlord's house at the Landlord's expense, essentially enjoying a parasitic existence. The doctrine of *res judicata* is raised by the appellants. It has no application.

3 The order is therefore granted as asked.

4 Costs fixed at \$1000 payable to Resp. in 30 days.

