CITATION NO.: 1000850372 Ontario Inc. v. Core Urban Pipeline LP, 2025 ONSC 5787
COURT FILE NO.: CV-25-91817
DATE: October 10, 2025

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: 1000850372 Ontario Inc. operating as Zen Lounge, Applicant

- and -

Core Urban Pipeline LP, Respondent

BEFORE: MacNeil J.

COUNSEL: *Daniel Waldman and Vanessa L. Ford* – for the Applicant

Jennifer Vrancic and R. McIlhone (Student-At-Law) – for the Respondent

HEARD: September 16, 2025

REASONS FOR DECISION

[1] The applicant, 1000850372 Ontario Inc. operating as Zen Lounge ("the Tenant"), brings this urgent application seeking, among other things, an interim and permanent injunction restraining the respondent, Core Urban Pipeline LP ("the Landlord"), from terminating its tenancy and from taking any action to exclude the Tenant from the rented unit, and an order for relief from forfeiture.

[2] The Landlord makes its own a motion for an order staying the application on the basis that the parties had agreed to resolve any disputes through mediation/arbitration.

BACKGROUND

[3] The Tenant operates a bar and nightclub, Zen Lounge, in downtown Hamilton in a commercial building unit that it rents from the Landlord ("the Premises") pursuant to a written lease agreement, dated March 27, 2024 ("the Lease").

[4] The Landlord's evidence is that, on August 29, 2025, an agent of the Tenant permitted three individuals who had guns to enter through the rear entrance of the Premises, bypassing the security protocols. Those three persons then exited the Premises through the rear exit shortly before 1:00 a.m. where they immediately engaged in a shootout with persons bearing assault rifles ("the Incident"). It was published in the media that the Incident resulted in three individuals being seriously injured and taken to the hospital, and that police had reported "an assault rifle was one of the weapons used to fire between 80 and 100 rounds" at the scene.

[5] It is the Landlord's evidence that the Incident resulted in significant property damage to its building, including a dozen broken windows and bullet holes to other units. Repairs will take approximately two months to complete.

[6] After the Incident, on September 4, 2025, the Tenant's representatives met with the Landlord's representatives to discuss the situation. While different options were discussed, the parties did not agree to anything.

[7] The Landlord's evidence is that, on September 5, 2025, it sent a Notice of Default to the Tenant by email, and posted a copy of same on the front door of the Premises, that stated:

> *To whom it may concern,*
>
> *You are hereby notified that effective immediately Zen Lounge is in Default of their Lease obligations and closed.*
>
> *Sincerely, Core Urban* ("the September 5 Notice").

[8] At the same time, the Landlord locked the Tenant out of the Premises and retook possession. The Landlord's evidence is that it was exercising its rights under Section 15.1 of the Lease to re-enter and take possession of the Premises.

[9] The Landlord also posted a second notice on the door to the Premises, which stated:

> *To the people and companies that enjoy 69 John,*
>
> *The events of the past weekend that took place from Zen's operation are shocking. A downtown in fear is not the Hamilton we know, or one we want to foster. Like you, we want the downtown to feel and be safe.*
>
> *Our (Core Urban) goal is to promote downtown and provide opportunities through spaces for people and businesses to thrive in our community.*
>
> *Zen is not building our community up; it is bringing it down.*
>
> *Zen is now closed.*
>
> *Thank you for continuing to support the downtown. Your commitment to our community makes a material difference in our City.*
>
> *Sincerely,*
> *…*

[10] The Tenant retained a lawyer who, on September 5, 2025, wrote to the Landlord and requested immediate access to the Premises.

[11] On September 6, 2025, the Landlord wrote to the Tenant's lawyer, stating:

> *The incident that happened outside of Zen involved individuals that were invited to Zen. They were not subjected to any metal detectors and were granted access through the back entrance. They were armed and allowed to be inside the unit with the public.*
>
> *We met with your client on Thursday September 4th at our office. We discussed options to remedy the situation and for Zen to send a positive message to the community.*
>
> *- [M.] was to send a proposal for a new business that day – he sent the next day*
> *- Zen was not to be re-opened – Zen continued to advertise for future shows*
>
> *Your client did not abide by the outline we agreed to for a path to continue to operate and keep the Lease.*
>
> *The Conduct of Zens [*sic*] business is a clear noncompliance of the Lease.*
>
> *Furthermore, Zen has failed to make an outstanding payment of $6,857.60 after a three (3) day written notice as well as secondary notice with a following ten (10) day period. This is not the first occurrence of Default for the Tenant. The Landlord is within its rights to Terminate the Lease.*
>
> *We are willing to meet to discuss how we decouple the situation. Zen reopening is not an option.*
>
> *We did not post any notice to Facebook or any other social media channels.*

[12] On September 9, 2025, a bylaw enforcement officer with the City of Hamilton delivered an Administrative Penalty Notice in the amount of $300.00 to the Premises, in the name of the Tenant, on the grounds that the Tenant had been operating a strip club out of the Premises without a license to operate an adult entertainment facility.

[13] The Landlord's evidence is that it was advised by the bylaw enforcement officer that the City had previously issued an infraction notice to the Tenant a few weeks prior for the operation of an unlawful adult entertainment facility, and that the City had video evidence in support of same.

THE LEASE

[14] The Lease provides for a five-year term commencing on April 15, 2024.

[15] Section 15.1 of the Lease sets out the default and remedies provisions. It reads, in part:

> If any of the following shall occur:

(a) Tenant fails, for any reason, to make any payment of Rent as and when the same is due to be paid hereunder and such default continues for five (5) days after written notice by the Landlord; or

(b) Tenant fails, for any reason, to observe or perform any obligation of Tenant pursuant to this Lease other than the payment of any Rent, and such default continues for ten (10) days after notice thereof to Tenant;

then the Landlord, in its sole discretion, without any necessity for legal proceedings and without prejudice to any of the Landlord's rights or remedies hereunder or at law, may immediately re-enter the Premises and begin to cure the default at the expense of the Tenant, which expense shall be billed to the Tenant as Additional Rent. If Tenant's default cannot be cured at Tenant's expense, then the Landlord shall have the right to terminate this Lease.

In addition, if the following occur:

…

(f) termination or re-entry by Landlord is permitted under any provision of this Lease or at law;

…

The tenant will be notified by the Landlord once of the infraction and will have ten (10) business days to rectify the breach of the rule or regulation. If Tenant has not rectified the breach or has failed to follow or abide by the rules and regulations without rectification a second time during the Term or any Renewal Term, Landlord will have a right to terminate this Lease and seek damages for the remainder of the Basic Rent period of the Lease. …

[16] Section 19 of the Lease sets out the resolution process for any disputes between the parties with respect to the agreement. It reads:

ARTICLE NINETEEN – DISPUTE RESOLUTION

Section 19.1 – General

The Parties agree that any dispute, controversy, or claim arising out of, relating to, or in connection with this Lease, including any question regarding its existence, validity, interpretation, breach, termination, or enforceability (a "Dispute"), shall be resolved as set forth in this Article. The Parties shall endeavor to resolve any Dispute first through negotiation and consultation in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties.

Section 19.2 – Mediation

a) If any Dispute cannot be resolved through negotiation within thirty (30) days after either Party has made a request to the other Party for such negotiation, the Dispute shall be submitted to mediation pursuant to the provisions of this Section 19.2.

b) The mediation shall be administered by a professional mediation service mutually agreed upon by the Parties, or, in the absence of agreement, by a mediation service appointed by the court having jurisdiction over the matter. The mediation shall take place in Hamilton, Ontario, Canada, or another location mutually agreed upon by the Parties.

c) Each Party will bear its own costs in connection with the mediation, and the Parties will share equally the fees and expenses of the mediator.

d) The mediation shall be conducted in a confidential manner. The existence of the dispute, any settlement agreement, and any proceedings shall be kept in confidence by the Parties and the mediator.

e) If the Dispute is not resolved through mediation within sixty (60) days after the commencement of mediation, or such longer period as the Parties may agree in writing, either Party may proceed to arbitration as set forth below.

Section 19.3 – Arbitration

a) Any Dispute that is not resolved through mediation pursuant to Section 19.2 shall be finally settled by arbitration administered by a reputable arbitration institution selected by mutual agreement of the Parties, or in the absence of agreement, by an institution appointed by the court having jurisdiction over the matter.

b) The arbitration shall be conducted by a single arbitrator agreed upon by the Parties, or, in the absence of such agreement, appointed in accordance with the rules of the arbitration institution.

c) The place of arbitration shall be Hamilton, Ontario, Canada, or another location mutually agreed upon by the Parties.

d) The arbitration shall be conducted in the English language and the arbitral decision shall be final, binding, and non-appealable, except as may be allowed by applicable law.

e) The award rendered by the arbitrator shall be accompanied by a written explanation of the findings and conclusions on which the award is based.

f) The costs of the arbitration, including administrative fees, the arbitrator's fees, and reasonable attorney's fees, shall be borne by the unsuccessful Party, as determined by the arbitrator. Each Party shall bear its own costs and expenses associated with the arbitration proceedings.

Section 19.4 – Continuation of Performance

Notwithstanding the existence of a Dispute, each Party shall continue to perform its obligations under this Lease to the fullest extent possible consistent with the dispute resolution proceedings.

POSITION OF THE TENANT

[17] It is the position of the Tenant that the terms of the Lease are clear. In the event of a tenant default, the Landlord is required to provide written notice and an opportunity to cure the default. The Landlord not only failed to provide the Tenant with a notice of default or breach, but also denied the Tenant any opportunity to remedy the alleged breach.

[18] The Tenant submits that the Landlord's September 5, 2025 email is inaccurate. On July 9, 2025, Zen Lounge asked the Landlord for an extension to pay the July and August rent at the end of the month because the summer was slow. On July 10, 2025, the Landlord agreed that half of the rent could be paid the following week and "then worry about the second half of the payment at the end of the month?" At no time did the Landlord state that the Tenant was in default of the Lease. Nor did it serve a notice of default. Rent for August and September was paid in full and accepted by the Landlord without objection. On September 8, 2025, the Tenant obtained a bank draft to pay the outstanding $6,857.60 but the Landlord refused to accept it.

[19] The Landlord took the position about the rent default only after it had locked the Tenant out of the Premises following the Incident.

[20] The Landlord's actions have left Zen Lounge unlawfully excluded from the Premises and unable to carry on its business. Since the date it was closed, the Tenant has lost revenue and money it had paid for entertainment. The Tenant has equipment and alcohol at the Premises that it no longer has access to. Further, the Landlord's conduct in posting the second notice and in going to media outlets and advising that Zen Lounge was closed because of the Tenant's failure to establish guidelines has caused the Tenant reputational harm.

[21] The Tenant submits that it is inequitable for the Lease Agreement to be terminated on the basis of alleged breaches that have not been clearly articulated nor substantiated.

[22] The Tenant seeks injunctive and equitable relief to restore its possession of the Premises.

POSITION OF THE LANDLORD

[23] It is the position of the Landlord that the application should be stayed and the dispute between the parties should be referred to arbitration, in accordance with the resolution clauses in

the Lease. The subject matter of the within application clearly relates to the Lease. The Incident constitutes a default under the Lease which is incapable of being cured. Through the Lease, the parties have agreed to an alternative dispute resolution process consisting of a mediation followed by an arbitration. The within application is an attempt by the Tenant to circumvent that process. The court must stay the application.

[24] The Landlord submits that the Tenant has repeatedly been non-compliant in paying rent and there was outstanding rent owing for the month of July 2025 in the amount of $6,857.60. Section 18(1) of the *Commercial Tenancies Act*, R.S.O. 1990, c. L.7, provides for a landlord's right of re-entry to premises for the non-payment of rent. A landlord can re-enter the leased premises after 15 days of non-payment of rent and/or under the terms of the lease. Here, the Landlord was entitled to re-enter the Premises on September 5, 2025, since the Tenant was in default of the payment of rent for more than 15 days following the email from the Landlord requesting payment of the rent.

[25] Further, the Landlord contends that it was entitled to re-enter the Premises as the Tenant has been operating an unlicensed adult entertainment facility (more commonly known as a strip club) out of the Premises in breach of both the permitted use under the Lease and under local by-laws. The Tenant had received notice from the City several weeks prior to the Landlord's re-entry but had continued to operate its unlawful business. The operation of an illegal business is a serious breach of the lease: *Campbell v. 1493951 Ontario Inc.*, 2020 ONSC 4029, at para. 62.

ISSUES

[26] The following issues were raised:

(a) Should the application be stayed and the dispute between the parties referred to arbitration?
(b) Should the Tenant be granted an injunction?
(c) Is the September 5 Notice terminating the Lease enforceable?
(d) Should the Tenant be granted relief from forfeiture?

ANALYSIS

(a) Should the application be stayed and the dispute between the parties referred to arbitration?

[27] By section 19 of the Lease, the parties have agreed to the process they must follow to try and resolve "any dispute, controversy, or claim arising out of, relating to, or in connection with this Lease, including any question regarding its existence, validity, interpretation, breach, termination, or enforceability". That process entails, first, negotiation and consultation in good faith and then mediation and, subsequent to that, section 19.3 provides that the parties agree to arbitrate any dispute that the parties have not been able to resolve through mediation.

[28] Where the parties to a dispute have entered into an agreement to arbitrate, the courts have consistently held that due respect for arbitration agreements, and arbitration more broadly, must

be shown, particularly in the commercial setting: *TELUS Communications Inc. v. Wellman*, 2019 SCC 19 (S.C.C.), at para. 54.

[29] Even in situations where one of the parties has repudiated the agreement, an arbitration clause generally survives. This principle was discussed in the seminal case *Heyman v. Darwins, Ltd.*, [1942] A.C. 356, [1942] 1 All E.R. 337 (H.L.), where, at pp. 366-67 A.C., p. 343 All E.R., Viscount Simon L.C. stated:

> An arbitration clause is a written submission, agreed to by the parties to the contract, and, like other written submissions to arbitration, must be construed according to its language and in the light of the circumstances in which it is made. If the dispute is whether the contract which contains the clause has ever been entered into at all, that issue cannot go to arbitration under the clause, for the party who denies that he has ever entered into the contract is thereby denying that he has ever joined in the submission. Similarly, if one party to the alleged contract is contending that it is *void ab initio* (because, for example, the making of such a contract is illegal), the arbitration clause cannot operate, for on this view the clause itself also is void. But, in a situation where the parties are at one in asserting that they entered into a binding contract, but a difference has arisen between them whether there has been a breach by one side or the other, or whether circumstances have arisen which have discharged one or both parties from further performance, such differences should be regarded as differences which have arisen "in respect of," or "with regard to," or "under" the contract, and an arbitration clause which uses these, or similar, expressions should be construed accordingly. By the law of England (though not, as I understand, by the law of Scotland), such an arbitration clause would also confer authority to assess damages for breach, even though it does not confer on the arbitral body express power to do so.

[30] In that same case, Lord MacMillan stated at p. 373 A.C., pp. 346-47 All E.R.:

> Repudiation, then, in the sense of a refusal by one of the parties to a contract to perform his obligations thereunder, does not of itself abrogate the contract. The contract is not rescinded. It obviously cannot be rescinded by the action of one of the parties alone. But, even if the so-called repudiation is acquiesced in or accepted by the other party, that does not end the contract. The wronged party has still his right of action for damages under the contract which has been broken, and the contract provides the measure of those damages. It is inaccurate to speak in such cases of repudiation of the contract. The contract stands, but one of the parties has declined to fulfil his part of it. There has been what is called a total breach or a breach going to the root of the contract and this relieves the other party of any further obligation to perform what he for his part has undertaken. Now, in this state of matters, why should it be said that the arbitration clause, if the contract contains one, is no longer operative or effective? A partial breach leaves the arbitration clause effective. Why should a total breach abrogate it? The repudiation being not of the contract but of obligations undertaken by one of the parties, why should it imply a repudiation of the arbitration clause so that it can no longer be invoked for the settlement of disputes

arising in consequence of the repudiation? I do not think that this is the result of what is termed repudiation.

[31] And further at p. 374 A.C., p. 347 All E.R.:

> I am, accordingly, of opinion that what is commonly called repudiation or total breach of a contract, whether acquiesced in by the other party or not, does not abrogate the contract, though it may relieve the injured party of the duty of further fulfilling the obligations which he has by the contract undertaken to the repudiating party. The contract is not put out of existence, though all further performance of the obligations undertaken by each party in favour of the other may cease. It survives for the purpose of measuring the claims arising out of the breach, and the arbitration clause survives for determining the mode of their settlement. The purposes of the contract have failed, but the arbitration clause is not one of the purposes of the contract.

[32] Section 7(1) of the *Arbitration Act, 1991*, S.O. 1991, c. 17 ("the *Arbitration Act*"), provides that, if a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on the motion of another party to the arbitration agreement, stay the proceeding.

[33] There are certain prescribed exceptions to the staying of a proceeding, as found in ss. 7(2) and 7(5) of the *Arbitration Act*, which read:

> 7 (2) However, the court may refuse to stay the proceeding in any of the following cases:
>
> 1. A party entered into the arbitration agreement while under a legal incapacity.
>
> 2. The arbitration agreement is invalid.
>
> 3. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
>
> 4. The motion was brought with undue delay.
>
> 5. The matter is a proper one for default or summary judgment.
>
> …
>
> (5) The court may stay the proceeding with respect to the matters dealt with in the arbitration agreement and allow it to continue with respect to other matters if it finds that,

(a) the agreement deals with only some of the matters in respect of which the proceeding was commenced; and

(b) it is reasonable to separate the matters dealt with in the agreement from the other matters.

[34] In *Wellman*, Moldaver J., for the majority of the Supreme Court of Canada, recognized the mandatory nature of s. 7(1) of the *Arbitration Act* stating, at para. 63:

> First, s. 7(1) establishes a general rule: where a party to an arbitration agreement commences a proceeding in respect of a matter dealt with in the agreement — that is, at least one matter in the proceeding is dealt with in the arbitration agreement — the court "shall", on the motion of another party to the agreement, stay the court proceeding in favour of arbitration. The use of the word "shall" in s. 7(1) indicates a mandatory obligation (see *Haas*, at paras. 10-12; see also R. Sullivan, *Statutory Interpretation* (3rd ed. 2016), at p. 90). This general rule reaffirms the concept of party autonomy and upholds the policy underlying the *Arbitration Act* that parties to a valid arbitration agreement should abide by their agreement.

[35] At paragraphs 69-70 of *Wellman*, Moldaver J. went on to hold that s. 7(5) of the *Arbitration Act* does not grant the court discretion to refuse to stay claims that are dealt with in an arbitration agreement, stating:

> 69 If both preconditions are satisfied, then instead of ordering a full stay, the court "may" allow the matters that are *not* dealt with in the arbitration agreement to proceed in court, though it must nonetheless stay the court proceeding in respect of the matters that *are* dealt with in the agreement. To illustrate, where the parties to an arbitration agreement have chosen to include "A" but not "B" in their agreement, s. 7(5) allows the court, where the two preconditions are met, to hear a court proceeding in respect of "B", despite the fact that the proceeding must be stayed in respect of "A". Because it gives effect to the parties' agreement to submit only certain types of disputes to arbitration, this interpretation reaffirms the concept of party autonomy and upholds the policy underlying the *Arbitration Act* that parties to a valid arbitration agreement should abide by their agreement.
>
> 70 However, if the preconditions are *not* met, then the discretionary exception under s. 7(5) is not triggered. [Emphasis in original.]

[36] In *Haas v. Gunasekaram*, 2016 ONCA 744, at para. 17, the Ontario Court of Appeal set out a five-part analytical framework for determining whether an action should be stayed for arbitration:

(1) Is there an arbitration agreement?
(2) What is the subject matter of the dispute?
(3) What is the scope of the arbitration agreement?
(4) Does the dispute arguably fall within the scope of the arbitration agreement?

(5) Are there grounds on which the court should refuse to stay the action?

[37] In applying that framework to the case before me, I find that there is an arbitration agreement set out in section 19.3 of the Lease. The language of the arbitration agreement is very broad in scope. It encompasses "any dispute, controversy, or claim arising out of, relating to, or in connection with" the Lease "including any question regarding its existence, validity, interpretation, breach, termination, or enforceability".

[38] I find that the subject-matter of the dispute between the parties – being the validity of the Landlord's termination of the Tenant's tenancy and whether either of the parties has breached the terms of the Lease – are matters that fall directly within the scope of the parties' arbitration agreement.

[39] I am satisfied that none of the preconditions set out in ss. 7(2) and 7(5) of the *Arbitration Act* are met, so those provisions do not apply so as to preclude the granting of a stay.

[40] Accordingly, the application as a whole must be stayed, pursuant to the general rule under s. 7(1) of the *Arbitration Act*.

(b) Should the Tenant be granted an injunction?

[41] In the application, the Tenant seeks both a permanent and an interlocutory injunction. While the application has been ordered stayed, the court must decide if it should exercise its discretion to grant interim injunctive relief pending arbitration.

[42] The law is clear that, where a dispute falls within the arbitration clause in an agreement, the parties must proceed by arbitration as agreed and a court should respect the agreement and refuse to accommodate a parallel court proceeding in respect of the dispute, unless a remedy is required which the arbitrator has no authority to grant. To that extent, the court's residual inherent jurisdiction to grant interim relief remains: See *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929 (S.C.C.), at paras. 45, 57 and 67.

[43] Here, s. 31 of the *Arbitration Act* gives the arbitral tribunal broad powers to decide disputes in accordance with law and equity, and to order specific performance, injunctions and other equitable remedies. Clearly then, an arbitrator is empowered to order injunctive relief.

[44] Accordingly, I conclude that the parties must comply with the terms of their agreement and proceed to have their dispute resolved by way of arbitration. The Tenant can seek injunctive relief through that process. See *Loan Away Inc. v. Western Life Assurance Company*, 2018 ONSC 7229, at paras. 68-69.

[45] I decline to exercise my discretion under s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, to grant an injunction in the circumstances of this case.

(c) Is the September 5 Notice terminating the Lease enforceable?

[46] In accordance with my earlier ruling above, a determination of whether the September 5 Notice is enforceable falls within the scope of the arbitrator's jurisdiction and ought to be decided by the arbitrator. Accordingly, I decline to make a ruling on this issue.

(d) Should the Tenant be granted relief from forfeiture?

[47] In my view, a determination of whether the Tenant should be granted relief from forfeiture also falls within the scope of the arbitrator's jurisdiction, since it depends on the determination of whether the Tenant has breached the Lease. However, since it may take some time for the outcome of any arbitration to become known, I will consider whether interim relief from forfeiture should be granted pending arbitration.

[48] Section 20(1) of the *Commercial Tenancies Act* provides that where a lessor is proceeding to enforce a right of re-entry, the court may grant such relief from forfeiture as it thinks fit, having regard to the proceeding, the conduct of the parties, and all of the circumstances of the case in determining whether the case is appropriate for relief.

[49] Courts have recognized that forfeiture is a very serious remedy that should be avoided, where appropriate, unless the tenant's behavior has been "persistent, substantial or reprehensible". The power to grant relief against forfeiture is discretionary and the court is to consider the following three criteria in making its determination:

(i) the conduct of the applicant and gravity of the breaches;

(ii) whether the object of the right of forfeiture in the lease was essentially to secure the payment of money; and

(iii) the disparity or disproportion between the value of the property forfeited and the damage caused by the breach.

See: *Saskatchewan River Bungalows Ltd. v. Maritime Life Assurance Co.*, 1994 CanLII 100 (SCC), [1994] 2 S.C.R. 490 at p. 504; *Jungle Lion Management Inc. v. London Life Insurance Company*, 2019 ONSC 780, at paras.33- 34.

[50] The Tenant submits that it has acted in good faith in its relations with the Landlord. It discussed the Incident with the Landlord and possibilities for rebranding Zen Lounge. It has also been ready, willing and able to make the $6,857.60 rent payment. To the contrary, the Landlord has not been transparent about the basis for terminating the Lease Agreement and has made libelous statements about the Tenant. The Landlord never alleged that the Tenant was in breach of the Lease Agreement. The notice did not specify any breach of the Lease Agreement. The Landlord now claims that the alleged breach stems from Zen Lounge's alleged failure to make the $6,857.60 payment, which represents a *de minimis* amount of the rent to be paid over its five-year term.

[51] The Landlord's position is that there has been a fundamental breach of the Lease as the Tenant created a situation of danger by its agent permitting three individuals with guns to enter Zen Lounge without passing through security protocols, which then led to the Incident. The Tenant's conduct in this regard and the Incident have created significant problems and harms to the Landlord and raised concerns amongst other tenants of the building as it relates to safety. Further, shortly after the Incident, the Landlord learned information about Zen Lounge operating an after-hours strip club without a licence. While this is information that was acquired after the tenancy had been terminated, it is still relevant as it constitutes another breach of the Tenant's obligations under the Lease. The Landlord also relies on the Tenant's non-compliance with its rent payment obligations prior to the termination, by failing to pay half of the rent owing from July 2025.

[52] In exercising the discretion of the court in granting or withholding relief under s. 20(1) of the *Commercial Tenancies Act*, the court should take into account all relevant circumstances surrounding the lessor-lessee relationship, which may include breaches of covenants other than the particular ones complained of, the history of the relationship, the gravity of the breaches, the tenant's conduct or misconduct, and its good faith or bad faith: *Green Solutions Industries International Inc. v. Clarke Holdings (London) Inc.*, 2022 ONSC 1505, at para. 70.

[53] In my view, the alleged breaches by the Tenant relating to the Incident and the operation of a strip club without a licence are very serious in nature. Allowing persons to enter the Premises with firearms unchecked appears to have led to the Incident, thereby putting the personal safety of patrons and others at risk and causing damage to the Landlord's building. Further, if the Tenant was operating an unlicensed strip club after hours, that would also constitute a very substantial breach of the Lease. With respect to those two alleged breaches by the Tenant, I accept the Landlord's submission that its interests cannot be "fully vindicated without resort to forfeiture": *Green Solutions Industries International Inc. v. Clarke Holdings (London) Inc.*, 2022 ONSC 1505, at para. 65, citing *Ontario (Attorney General) v. 8477 Darlington Crescent*, 2011 ONCA 363, at para. 87; *7984987 Canada Incorporated v. Lixo Investments*, 2012 ONSC 5439, at para. 14.

[54] Accordingly, I decline to exercise the Court's equitable jurisdiction and relieve against forfeiture.

DISPOSITION

[55] Based on the foregoing reasons, the Landlord's motion is hereby granted, and the Tenant's application is stayed pending arbitration.

[56] The Tenant's request for an interim injunction and relief from forfeiture is dismissed, without prejudice to its ability to seek such relief again on better evidence.

COSTS

[57] I would urge the parties to agree on costs. If they are unable to do so, then costs submissions may be made as follows and submitted to the Sopinka Judicial Assistants to my attention:

(a) By October 31, 2025, the Landlord shall serve and file its written costs submissions, not to exceed three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers; and

(b) The Tenant shall serve and file its responding costs submissions of no more than three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers, by November 14, 2025; and

(c) The Landlord's reply submissions, if any, are to be served and filed by November 21, 2025 and are not to exceed two pages.

(d) If no submissions are received by November 21, 2025, the parties will be deemed to have resolved the issue of the costs and costs will not be determined by me.

[58] If the parties are able to settle the question of costs or if a party does not intend to deliver submissions, counsel are requested to advise the court accordingly.

_____

MacNEIL J.

Released: October 10, 2025