

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: 2470324 Ontario Inc., Applicant

AND:

E-Blue Gaming Inc., Sihend Zhao, Zhi Sheng Hu and Cheng Kai Hu,
Respondents

BEFORE: Associate Justice Jolley

COUNSEL: Michael Katzman, Counsel for the Applicant

No one appearing for the Respondents

HEARD: 21 October 2025

REASONS FOR DECISION ON REFERENCE

Overview

- [1] The applicant landlord entered into a lease with the respondent tenant E-Blue Gaming Inc. for a ten year term commencing 1 May 2018 and ending 30 April 2028 (the “lease”) for 4,000 s.f. of ground floor space and 2,400 s.f. of basement space at 530 Yonge Street, Toronto (the “leased premises”). The term was amended by a lease amending agreement dated 8 March 2018 to commence 1 June 2018 and terminate 31 May 2028. The respondents Sihend Zhao, Zhi Sheng Hu and Cheng Kai Hu indemnified the landlord from any damages arising from any default by the tenant of its lease obligations.
- [2] The tenant’s first default under the Lease occurred in or about February 2020 when it failed to pay its rent. Ultimately the parties entered into a rent reduction agreement on 8 July 2020 and, on 8 December 2021, entered into a rent deferral agreement, a term of which acknowledged the arrears of rent at \$206,585.06 as of that date.
- [3] The tenant failed to pay rent as it became due in or about April 2023. In addition to basic rent, the lease required the tenant to pay additional rent, which it also failed to do. In September 2023, the landlord terminated the lease.
- [4] On 11 April 2025 Sanderson, J. declared the respondents jointly and severally liable to the landlord for damages for breach of the lease and ordered that those damages as well as the costs of the application before her and this reference be determined by way of reference. The respondents did not participate in the application hearing.

- [5] As noted below, pursuant to that judgment of 11 April 2025 and Her Honour's endorsement of 14 April 2025, this reference was referred to me on 11 June 2025.
- [6] The first case conference in this reference was heard on 28 July 2025 and the applicant circulated call in details to the respondents. The respondents did not participate but were provided with a copy of my endorsement setting the date for the hearing and a timetable for delivery of all materials. They did not file responding materials for this application and are not here today. The applicant served the respondents with its reference materials on 19 September 2025 and with the zoom link for this reference on 25 September 2025. None of the respondents has responded to the applicant.
- [7] The landlord claims damages for rental arrears to the date of breach as well as the rent that would have been due to 31 May 2028, the end of the term, subject to its mitigation obligation and efforts.

A. Outstanding Rent

- [8] The landlord has tendered evidence confirming that its rental damages to the date of termination were \$262,510.42.
- [9] Its outstanding rental damages since the breach calculated to the end of the lease term are as follows:

(a) Unpaid basic rent for the ground floor space (4,000 s.f.)

Start	End	\$/S.F.	Months	Total
2023-10-02	2024-05-31	\$55.00	8	\$146,666.67
2024-06-01	2025-05-31	\$60.00	12	\$240,000.00
2025-06-06	2026-05-31	\$60.00	12	\$240,000.00
2026-06-01	2027-05-31	\$60.00	12	\$240,000.00
2027-06-01	2028-05-31	\$60.00	12	<u>\$240,000.00</u>
				\$1,146,666.67

(b) Unpaid basic rent for the basement space (2,400 s.f.)

Start	End	\$/S.F.	Months	Total
2023-10-01	2024-05-31	\$4.00	8	\$6,400.00
2024-06-01	2025-05-31	\$5.00	12	\$12,000.00
2025-06-01	2026-05-31	\$5.00	12	\$12,000.00
2026-06-01	2027-05-31	\$6.00	12	\$14,400.00
2027-06-01	2028-05-31	\$6.00	12	<u>\$14,400.00</u>

\$59,200.00

(c) Unpaid additional rent

Start	End	\$/S.F.	Months	Total
2023-10-01	2023-12-31	\$42.61	3	\$42,612.00
2024-01-01	2024-12-31	\$51.50	12	\$206,000.00
2025-01-01	2025-12-31	\$52.95	12	\$211,800.00
2026-01-01	2026-12-31	\$52.95	12	\$211,800.00
2027-01-01	2027-12-31	\$52.95	12	\$211,800.00
2028-01-01	2028-05-31	\$52.95	5	<u>\$88,250.00</u>
				\$972,262.00

Total Rent Owing: \$262,510.42 + \$1,146,666.67 + \$59,200.00 + \$972,262.00 = \$2,440,639.09

B. Rent Received in Mitigation

[10] The landlord has submitted evidence that it was able to relet the basement space effective 1 July 2024 to the end of the term, 31 May 2028, for 47 months at a rental rate of \$2,000 per month for a total rent of \$94,000.

[11] The landlord also re-leased 1,976 s.f. of the main floor space effective 1 March 2025 to the end of the term, 31 May 2028. It received basic rent of \$41,496.00 over the term and additional rent of \$335,677.94 over the term for a total rental income for this released portion of the main floor space of \$377,173.94.

[12] As of today's date, 2,042 s.f. of space in the leased premises remains unleased. The landlord has assumed that it will be able to rent this remaining space by the end of 2025 or shortly thereafter. Despite this uncertainty, the landlord is seeking rent on this remaining space only up to 1 October 2025. It has assumed thereafter that it will obtain a market rent of \$30,970.33 in basic rent and \$288,330.40 in additional rent for a total assumed received rent of \$319,300.73 over the life of the lease term, which is a credit to the respondents.

(a) Assumed Basic rent for remainder of main floor space

Start	End	\$/S.F.	Months	Total
2025-10-01	2026-12-31	\$5.00	15	\$12,762.50
2027-01-01	2027-12-31	\$6.00	12	\$12,252.00
2028-01-01	2028-05-31	\$7.00	5	<u>\$5,955.83</u>
				\$30,970.33

(b) Assumed additional rent for the remainder of the main floor space

2025-10-01	2026-12-31	\$52.95	15	\$135,154.88
2027-01-01	2027-12-31	\$52.95	12	\$108,123.90
2028-01-01	2028-05-31	\$52.95	5	<u>\$45,051.63</u>
				\$288,330.40

Total rent owing less rent received or assumed received: \$2,440,639.09 - \$94,000 - \$377,173.94 - \$30,970.33 - \$288,330.40 = \$1,650,164.42.

C. Mitigation costs

[13] In order to effect the two re-leases, the landlord incurred the cost of demising the leased space, getting those spaces ready to relet and paying realtor commission on the main floor space relet. The landlord has tendered evidence, which the respondents have not challenged, and which appears reasonable, that the cost of the construction work to demise and prepare the spaces to be relet was \$198,872.53 plus HST.

[14] Further, it incurred commission costs of \$10,670.40 plus HST to lease the main floor space and it claims a pro-rated portion of 39/60 as its costs of mitigation for a total of \$6,935.76 plus HST.

Losses including mitigation costs: \$1,650,164.42 + \$198,872.53 + \$6,935.76 = \$1,855,972.71

Losses including HST: \$1,855,972.71 x 1.13 = \$2,097,249.16

D. Conclusion

[15] Its total damages claimed, then are \$2,097,249.16, which I find to be supported by the evidence and reasonable.

E. Interest

[16] Section 9.03 of the lease provides for payment at prime + 5% on any overdue amounts, or 12.20% per annum, using the RBC Prime rate at the date the lease was terminated. This rate is reflected in the Report which I have issued in accordance with the judgment of reference and in conjunction with these reasons.

F. Legal Fees

[17] Section 9.07 of the lease provides for full payment of legal fees incurred in the event of the tenant's default. Per the 11 April 2025 judgment, the applicant claims costs of the application that was before Sanderson, J. and costs of this reference before me. Despite the terms of the lease, it is seeking costs only on a partial indemnity basis, inclusive of disbursements and HST, in the amount of \$24,921.86. Given the lease entitles the landlord to more than it is claiming, I find those costs to be fair and reasonable and less than what the respondents should have expected to pay in all of the circumstances.

- [18] The applicant shall serve these reasons and the Report on the respondents in the same manner as provided for by Brownstone, J. in her order of 21 January 2025.
- [19] Pursuant to rule 54.09(1)(b), the respondents shall have fifteen days after service to serve and file a notice of motion to oppose confirmation, failing which the Report is hereby confirmed.

Associate Justice Jolley

Date: 22 October 2025