CITATION: RW Stick Holdings Inc. v. Canadian Flatbeds Ltd, 2026 ONSC 1962
COURT FILE NO.: DC-24-00000009-0000
DATE: 2026-04-01

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SUPERIOR COURT OF JUSTICE – ONTARIO
491 Steeles Avenue East, Milton ON L9T 1Y7

RE: RW Stick Holdings Inc., Respondent (Plaintiff)

AND:

Canadian Flatbeds Ltd., Appellant (Defendant)

BEFORE: Kurz J.

COUNSEL: David Conway, for the Plaintiff

Michael Kelly, for the Defendant

HEARD: December 3, 2025

ENDORSEMENT

Introduction

[1] The Appellant, Canadian Flatbeds Ltd. ("CFL"), appeals the decision of Deputy Judge Hoffman of the Milton Small Claims Court dated November 14, 2024. At that time, the Deputy Judge granted judgment to the Respondent, RW Stick Holdings Inc. ("RW"), against CFL for $35,000 plus interest and costs, for breach of a lease agreement between the parties.

[2] CFL argues that the Deputy Judge erred in the following four ways:

1. In finding that RW was entitled to damages for breach of the lease between the parties, she failed to apply the principles set out by the Supreme Court of Canada in *Highway Properties Ltd. v. Kelly, Douglas and Co Ltd.*, [1971] S.C.R. 562 ("*Highway Properties*").

2. The Deputy Judge exceeded her jurisdiction by granting declaratory relief, or in the alternative, by granting relief in a matter concerning real property rights.

3. The Deputy Judge made a palpable and overriding error by finding that a binding commercial lease existed between the parties despite CFL's claim that the lease was contingent on the execution of a share purchase agreement between the parties.

4. The Deputy Judge failed to provide adequate reasons for her finding that a binding commercial lease existed between the parties.

[3] RW responds that:

1. The Deputy Judge properly applied the *Highway Properties* principles in finding that RW was entitled to damages for CFL's breach of the lease between the parties.

2. Rather than grant declaratory relief, the Deputy Judge properly made findings of fact regarding the existence of a binding commercial lease between the parties.

3. The Deputy Judge made no palpable and overriding error. Her findings were available to her based on the evidence presented at trial.

4. The Deputy Judge's reasons were sufficient, particularly within the context of the Small Claims Court, whose decisions need not be as thorough as those of the Superior Court.

[4] For the reasons that follow, I dismiss this appeal.

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Background

[5] RW owned and leased out units in the commercial premises located at 8250 Lawson Road, Milton (the “Premises”). CFL occupied the building next door, at 8270 Lawson Road, Milton.

[6] The two principals of RW were Craig Ryan (“Ryan”) and Kevin Wyeld (“Wyeld”). The principal of CFL was Harry Wadhwa (“Wadhwa”).

[7] CFL wished to purchase the shares of Ryan and Wyeld in RW because CFL had outgrown its own location next door to the Premises. As Ryan testified at trial (he was the only oral witness), CFL intended to rent units in the Premises until the shares could be purchased or in case a share purchase arrangement could not be made.

[8] Commencing in July 2019 and using real estate agent Peter McKenna (“McKenna”), Wadhwa approached Ryan and Wyeld about purchasing their shares in RW and leasing space in the Premises. On July 17, 2019, Ryan forwarded drawings and pricing regarding the rental of fourteen units within the Premises.

[9] On August 1, 2019, McKenna forwarded two offers to Ryan and Wyeld. One was an offer to purchase 100% of their shares in RW (the “Share Offer”). The second was an offer to lease 14 units in the Premises (the “Offer to Lease”). The Share Offer referred to the Offer to Lease but the Offer to Lease made no reference to the Share Offer or the purchase of Ryan and Wyeld’s shares in RW.

[10] The Offer to Lease was for a term of nine months, from September 1, 2019 to July 1, 2020, at a monthly rent of $11,661 plus HST. CFL says that the Offer to Lease was designed to accommodate the share purchase.

[11] On August 12, 2019, Ryan forwarded a signed draft lease to McKenna, with RW as landlord and CFL as tenant (the “Draft Lease”). The terms of the Draft Lease called for the rental of fourteen units in the Premises at a monthly rent of $11,661 plus HST. Rather

than nine months, it called for a term of four months and three days, from August 15 to December 18, 2019.

[12] Wadhwa signed the Draft Lease, with the following changes:

1. One of the units was deleted, reducing the number of leased units to thirteen.
2. The term of the lease was expanded to twelve months and the dates changed to cover the period from September 1, 2019 to August 31, 2020.
3. A term regarding the period between December 16 to 18, 2019 was deleted.
4. The monthly rent was reduced to $10,283 plus HST, to take into account the fact that one fewer unit was being leased.

[13] When Wadhwa signed the Draft Lease, McKenna applied a standardized red stamp to denote his changes. However, there is no direct evidence of the date of Wadhwa's signature of the Draft Lease. He would have signed the Draft Lease after August 12, 2019, when Ryan handed a signed copy of the Draft Lease to McKenna and before August 30, 2019, when Ryan delivered a fully initialled copy of the Draft Lease, which Wadhwa had previously signed, to McKenna, accepting each of Wadhwa's proposed amendments.

[14] On August 21, 2019, Ryan sent an email to McKenna, stating that RW's lawyer "asked that we clarify a few points so that we all don't get too far down this road with time and cost only to not be able to finalize the deal". Ryan's email suggested changes to the share purchase agreement. The email also referred to the Draft Lease, accepting that it would have a one-year term, as requested by Wadhwa. Ryan stated that he would "redo the document as [sic] send it over" to include the extended term. Ryan added that in light of the extended term, first and last months' rent and ten post-dated cheques would be required at the time of signing. Rather than prepare a new version of the Draft Lease,

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Ryan initialled changes to the Draft Lease and added minor, uncontested terms as set out below.

[15] There is no evidence as to whether the parties communicated between August 21, 2019 and August 30, 2019, when Ryan forwarded a copy of the Draft Lease, whereby he initialized all of the changes made by Wadhwa. However, the parties' business premises were next to each other and Ryan testified that he and Wadhwa spoke from time to time.

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[16] In his covering email to McKenna of August 30, 2019, Ryan wrote to McKenna: "As discussed earlier today, please find attached a copy of the signed one year lease agreement commencing September 1, 2019." In the attached amended First Draft Lease, Ryan changed the earlier reference to three post-dated cheques to "ELEVEN", changed the dates for the post-dated cheques to include the increased number of cheques required, and changed the monthly rent from $11,661 to $9,100. None of this was controversial between the parties, as they represented the agreed upon change from a three-month-plus term to a twelve-month term.

[17] In these reasons, I describe the fully signed version of the Draft Lease delivered by Ryan to McKenna on August 30, 2019 as the "Final Lease". Neither that document nor any previous iteration of the Final Lease contained any reference to a share purchase agreement by CFL.

[18] The following day, August 31, 2019, Ryan wrote to McKenna, stating that: "[s]eeing as the 1st is Sunday of a long weekend, we're willing to wait until Tuesday Sept 3rd to receive all payments as outlined". McKenna responded: "This has been sent forward".

[19] CFL did not provide any cheques to RW or communicate with it until Wadhwa wrote to Ryan and McKenna on September 13, 2019. In that email, he stated:

> Regarding the previously discussed and offered Lease for the above noted premises, the negotiations ended unsuccessfully and it is my belief that

> there is no signed lease and Canadian Flatbeds will not be going forward with a lease for the premises.

[20] Just over an hour later, Ryan responded, providing a copy of the signed Final Lease to Wadhwa. He wrote: “Hi Harry, Please find attached a copy of the signed lease. I had sent it to Peter [McKenna] on Friday August 30th to forward to you but assume by your comment that you believe there is no signed lease that you did not receive [sic].”

[21] Later that day, Ryan wrote again to Wadha. He stated: “[n]ow that you are aware that there is in fact a signed lease, we’d like to know how you plan to proceed”. He asserted that RW had incurred out of pocket expenses, tearing down walls at Wadhwa’s request, to make the Premises available for CFL’s needs. Ryan added:

> You’ve made it clear you do not plan to honour the signed lease, so we’ve proceeded to mitigate our losses by advertising the space for lease again. However, we would like you to send us a reasonable proposal that takes into account our expenses to both knock down and to reinstall these walls, along with a fair amount for the loss of income by holding the entire area for you.
>
> Please prepare your proposal with the amount you deem fair by Friday October 4, 5 pm EST. If we do not receive a reasonable proposal from you by that time, you will leave us with no other option than to proceed with legal action.

[22] As set out below, the parties differ on the import of this email communication and whether it represents what has come to be called "Highway Properties Notice".

Standard of Review

[23] In *Norma Wexler v. Carleton Condominium Corp. No. 28,* 2017 ONSC 5697, at para. 8, O'Bonsawin J., as she then was, stated that the standard of review for decisions of the Small Claims Court is the long-standing standard of appellate review set out in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at paras. 8-10. On questions of law, the standard is correctness. On findings of fact and mixed fact and law, the findings shall not be overturned unless there has been a palpable and overriding error.

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[24] I add that in *Housen,* the majority stated at para. 37, in regard to questions of mixed fact and law, that the palpable and overriding error standard applies "unless it is clear that the trial judge made some extricable error in principle with respect to the characterization of the standard or its application, in which case the error may amount to an error of law."

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Issues

[25] This appeal raises the following four issues:

1. In finding that RW was entitled to damages for breach of the Final Lease, did the Deputy Judge fail to apply the principles set out in *Highway Properties*?

2. Did the Deputy Judge exceed her jurisdiction by granting declaratory relief, or in the alternative, by granting relief in a matter concerning real property rights?

3. Did the Deputy Judge make a palpable and overriding error by finding that a binding commercial lease existed between the parties despite CFL's claim that the Final Lease was contingent on the execution of a share purchase agreement between the parties?

4. Were the Deputy Judge's reasons sufficient to explain her finding that a binding commercial lease existed between the parties?

Issue No. 1: In finding that RW was entitled to damages for breach of the Final Lease, did the Deputy Judge fail to apply the principles set out in *Highway Properties*?

[26] In *Highway Properties*, a 1971 decision of the Supreme Court of Canada, Laskin J., as he then was, writing for the court, stated at p. 570 that traditionally at common law,

where a tenant is in fundamental breach of a commercial lease or has repudiated it entirely, a landlord had three options:

> 1. [D]o nothing to alter the relationship of landlord and tenant, but simply insist on performance of the terms and sue for rent or damages on the footing that the lease remains in force.
>
> 2. Second, he may elect to terminate the lease, retaining of course the right to sue for rent accrued due, or for damages to the date of termination for previous breaches of covenant.
>
> 3. Third, he may advise the tenant that he proposes to re-let the property on the tenant's account and enter into possession on that basis.

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[27] However, at p. 570, Laskin J. considered a fourth option:

> … namely, that the landlord may elect to terminate the lease but with notice to the defaulting tenant that damages will be claimed on the footing of a present recovery of damages for losing the benefit of the lease over its unexpired term. One element of such damages would be, of course, the present value of the unpaid future rent for the unexpired period of the lease less the actual rental value of the premises for that period. Another element would be the loss, so far as provable, resulting from the repudiation …

[28] Laskin J. found that the fourth option should be available to a commercial landlord in the face of fundamental breach or repudiation of a lease, writing at p. 576:

> It is no longer sensible to pretend that a commercial lease, such as the one before this court, is simply a conveyance and not also a contract. It is equally untenable to persist in denying resort to the full armoury of remedies ordinarily available to redress repudiation of covenants, merely because the covenants may be associated with an estate in land. Finally, there is merit here as in other situations in avoiding multiplicity of actions that may otherwise be a concomitant of insistence that a landlord engage in instalment litigation against a repudiating tenant.

[29] The fourth option contemplates what is now known as “Highway Properties Notice”. In *Weins Canada Inc. v. Ensil Corporation*, 2019 ONSC 5406, Perell J. explained the purpose and operation of Highway Properties Notice at paras. 50-51 as follows:

> **50** After *Highway Properties*, through the mechanism of a notice advising the tenant of the claim for prospective damages, the landlord had a new fourth choice and a means of avoiding the legal effect of a surrender. The role of the notice should be emphasized. An aspect of the landlord's right to

> claim damages for prospective losses is the requirement that the landlord give timely notice of the claim. Absent this notice, the conduct of the landlord in retaking the premises could constitute a surrender of the lease by operation of law.
>
> **51** The requirement of giving notice has come to be known as giving a "Highway Properties" notice or giving a "Highway Properties Notice" or a "Kelly Douglas Notice". It is not necessary to give the Kelly Douglas Notice claiming damages contemporaneously with the termination of the lease but, rather, within a reasonable time. Provided the notice is given within a reasonable time, it may even be given in the statement of claim in the action for damages.[1]

[30] CFL argues in this appeal that RW failed to provide it with proper Highway Properties Notice and is therefore disentitled from exercising the fourth *Highway Properties* option. Thus, at best, RW is only entitled to the exercise of *Highway Properties* option two: damages for the thirteen days between the commencement of the Final Lease and September 13, 2019, when it gave notice that it was retaking the leased space.

[31] I do not agree. Wadhwa, on behalf of CFL, repudiated the Final Lease with his September 13, 2019 email to Ryan. In the alternative, by failing to pay rent or deliver any postdated cheques, and then making clear to Ryan that CFL had no intention of honouring the Final Lease, CFL committed a fundamental breach of the Final Lease.

[32] In his response of the same day, Ryan, on behalf of RW, gave Highway Properties Notice to CFL. While he requested a proposal to resolve the issue, he also offered a deadline for the receipt of such a proposal, failing which RW would commence legal action.

[33] There is no standard form of Highway Properties Notice. Rather, the notice must make clear that the landlord is claiming damages and is willing to take necessary steps

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[1] Citing *Falwyn Investors Group Ltd. v. GPM Real Property (6) Ltd.*, [1998] O.J. No. 5258 (Gen. Div.), aff'd [2000] O.J. No. 2877 (C.A.); *Langley Crossing Shopping Centres Inc. v. North-West Produce Ltd.* (1998), 20 R.P.R. (3d) 112 (B.C.S.C.) revd. on facts (2000), 73 B.C.L.R. (3d) 55 (C.A.); *Harvey v. Burger*, [1994] O.J. No. 1175 (Gen. Div.); *North Bay TV & Audio Ltd. v. Nova Electronics Ltd.* (1983), 44 O.R. (2d) 342 (H.C.J.), affd. (1984), 47 O.R. (2d) 588 (C.A.).

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to recover them. Here, Ryan's September 13, 2019 email to Wadhwa meets those requirements: it makes a claim for damages and indicates a willingness to take legal steps to enforce them. That Ryan requests an offer in order to mitigate RW's damages does not change the nature of the Highway Properties Notice he provided to CFL. Rather, it is a step in meeting RW's obligation to mitigate its damages under the fourth Highway Properties option: see *Weins Canada*, at para. 46.

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[34] RW argues in the alternative that its Claim, issued March 9, 2020, issued less than six months after CFL repudiated the Final Lease, amounted to Highway Properties Notice delivered within a reasonable time. In making that alternate argument, RW relies on para. 51 of *Weins Canada*, where Perell J. stated that notice only need be given within a reasonable time, including in a statement of claim.

[35] In light of my finding above regarding Ryan's September 18, 2019 email to Wadhwa, it is not necessary to make a finding about whether notice was given within reasonable time. But if I am incorrect in that regard, I find that the notice provided in RW's Claim, less than six months after the repudiation of the Final Lease, amounted to Highway Properties Notice within a reasonable period of time in the circumstances.

[36] In saying that, I consider the fact that the basic limitation period for most civil claims is two years: *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B, s. 4. The delay in providing the notice set out in RW's Claim is less than twenty-five percent of that basic limitation period. No evidence was presented at trial of any prejudice to CFL arising from that delay.

Issue No. 2: Did the Deputy Judge exceed her jurisdiction by granting declaratory relief, or in the alternative, by granting relief in a matter concerning real property rights?

Jurisdiction of the Small Claims Court

[37] The jurisdiction of the Small Claims Court is set out in s. 23(1) of the *Courts of Justice Act,* R.S.O. 1990, c. C.43, as follows:

> **Jurisdiction**
>
> **23** (1) The Small Claims Court,
>
> (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and
>
> (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount.

[38] There is no question that a deputy judge of the Small Claims Court lacks the jurisdiction to grant declaratory relief. Nor does a deputy judge have the jurisdiction to grant relief regarding an interest in real property, other than monetary damages.

[39] However, RW's Small Claims Court Claim did not seek declaratory relief or relief in regard to an interest in real property. Nor did the reasons of the Deputy Judge purport to grant such relief. Rather, RW claimed and the Deputy Judge granted relief in the form of monetary damages only. As set out below, that relief came within the jurisdictional bounds of the Small Claims Court.

The Deputy Judge Did Not Grant Declaratory Relief

[40] The reasons of the Deputy Judge do not even mention the words "declare" or "declaration". Rather, the Deputy Judge granted judgment in favour of RW for the Small Claims Court's $35,000 limit, plus interest and costs.

[41] Nonetheless, CFL appears to conflate the idea of a declaration with a finding of fact. In *Harrison v. Antonopoulos*, 62 O.R. (3d) 463 (S.C.J.), at paras. 25-28, Lang J. (as she then was) points out that every civil proceeding requires findings of fact, which she describes as factual declarations. Those findings are not a form a declaratory relief.

[42] Lang J. writes:

> **25** When the court exercises its original jurisdiction between private parties, a "declaration" usually refers to declarations or findings of fact naturally arising in the course of a fact-finding exercise. It would appear that

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courts have been increasingly willing to incorporate factual declarations into judgments to assist parties with respect to issues of continuing liability and to give them the right to execution with respect to an ongoing right. The original jurisdiction of the court to make declarations of fact appears to have been accepted in Coombe.

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26 It is important to know the purpose of the question because law and equity provide different types of declarations. Every action, by its nature, requires factual declarations. In a tort action, such as the one accompanying this claim for accident benefits, the plaintiff seeks factual findings to establish the defendant's liability. She wants the court to hold that the defendant breached the applicable standard of care by making findings that he drove his motor vehicle into the plaintiff while she was crossing the street at a marked crosswalk. While these findings might be phrased as "declarations", they are more familiarly known as findings of fact. That findings of fact are required does not, however, mean that "declaratory relief" is necessarily being requested. The distinction between declarations of fact and declaratory relief was noted by Reilly J. in Ramm v. Sun Life Assurance Co. of Canada (1999), 43 O.R. (3d) 652 (Gen. Div.), where he stated that declarations of fact "will form part of the judgment in any civil case: the defendant was (or was not) negligent, the statement was (or was not) libelous. What then is the difference between a declaration of fact and declaratory relief?" (p. 656 O.R.)

27 In the recently released Zamir & Woolf: The Declaratory Judgment, 3rd ed. (London: Sweet & Maxwell, 2002), authors Lord Woolf and Jeremy Woolf provide a useful description of declaratory judgments. In accordance with the various authorities dealing with this issue, the authors note that such a judgment "is a formal statement by a court pronouncing upon the existence or non-existence of a legal state of affairs" (para. 1.01). They helpfully go on to contrast a declaratory judgment with an executory or coercive one. A declaratory judgment is restricted to a declaration of the parties' rights. It contains no provision ordering any party to do anything. In a coercive judgment, "the courts determine the respective rights of the parties and then order the defendant to act in a certain way, for example, by an order to pay damages or to refrain from interfering with the claimant's rights ...". A coercive judgment, if ignored, may be enforced through levying execution (para. 1.02). Declaratory judgments are also distinguished from "divestive" judgments, which establish new rights rather than determine existing ones, for example, divorce judgments. Finally, and also distinct from declaratory judgments, are those declarations which "declare not only the rights of the plaintiff, but also the remedy to which he [or she] is entitled"

> (para. 1.03). Although remedial entitlement is a component of this last type of judgment, such a declaration lacks an enforcement mechanism.
>
> **28** Declaratory relief, being only a declaration of parties' rights, is mainly sought in commercial matters to help parties define their rights, and as a means to settle matters amicably where reasonable people would otherwise disagree on their mutual obligations and wish to resolve the matter in order to avoid future disputes. In other words, a cause of action need not be extant at the time a party requests declaratory relief. Because declaratory relief is in essence a request for an advance ruling, courts have discretion to refuse such relief. This is the type of relief contemplated by s. 108(2) of the CJA - a declaration of parties' rights with no coercive effect or remedial entitlement.

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[43] Put simply, the Small Claims Court cannot make any determination regarding any claim before it, whether in tort or breach of contract, or otherwise, unless it makes findings of fact. There is a no difference between the findings of fact in this case and those in, for example, innumerable other Small Claims Court breach of contract decisions over the years.

The Deputy Judge Granted No Relief in a Matter Concerning Real Property Rights

[44] In addition, the Deputy Judge made no order granting relief regarding real property rights. Rather, she granted damages for CFL's breach of contract; in this case, the Final Lease. Nothing in the reasons or order of the Deputy Judge purported to grant either party any real property rights or change any such rights. Rather, the Deputy Judge property considered the real property rights of the parties in determining that CFL owed money to RW arising out of its breach of contract.

[45] The point was made some time ago in the British Columbia Provincial Court decision, *Lou Guidi Construction Ltd. V. Fedick*, [1994] B.C.J. No. 2409, 1994 CarswellBC 2818 (P.C.). There, Stansfield J. faced a jurisdictional argument similar to the one propounded by CFL, in a suit regarding a breach of an agreement of purchase and sale for real property.

[46] At para. 18, Stansfield J. found that “the focus of the jurisdictional inquiry is the nature of the relief sought, not whether the matter touches upon certain issues.” Then at para. 22, Stansfield J. determined:

> In my view there now is nothing precluding a judge of this court considering interests in land in determining whether a claimant should succeed in a claim for debt or damages so long as no remedy purports in any way to affect title to or other interest in land, and so long as no statute precludes the particular consideration …

[47] At para. 23, Stansfield J. concluded:

> In this case the property in issue has been sold to a third party, and title conveyed to that person. I cannot imagine any determination which might be undertaken in the course of deciding whether the claimant is entitled to retain the deposit, or to be awarded damages in respect of the alleged deficiency, which could affect the title to land.

[48] While that decision was based on the jurisdiction granted to the British Columbia Small Claims Court by that province’s *Small Claims Act*, R.S.B.C. 1996, c 430, s. 3, that provision’s grant of jurisdiction is similar to that granted by s. 23(1) of the *Courts of Justice Act.* The British Columbia provision reads as follows:

> **3** (1) The Provincial Court has jurisdiction in a claim for
>
> (a) debt or damages,
>
> (b) recovery of personal property,
>
> (c) specific performance of an agreement relating to personal property or services, or
>
> (d) relief from opposing claims to personal property
>
> if the amount claimed or the value of the personal property or services is equal to or less than an amount that is prescribed by regulation, excluding interest and costs.
>
> (2) The Provincial Court does not have jurisdiction in a claim for libel, slander or malicious prosecution.

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[49] The reasoning of Stansfield J. in *Lou Guidi* was adopted by the Supreme Court of Yukon in two decisions involving claims for damages related to real property: *Whitehorse (City) v. Cunning*, 2009 YKSC 48, at paras. 76-86, and *Young v. Beacon*, 2010 YKSC 67, at para. 18.

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Conclusion Regarding Jurisdictional Issues

[50] Nothing in the wording of s. 23 of the *Courts of Justice Act*, which sets out the jurisdiction of the Small Claims Court, prohibits that court from awarding the relief granted by the Deputy Judge below.

Issue No. 3: Did the Deputy Judge make a palpable and overriding error by finding that a binding commercial lease existed between the parties despite CFL's claim that the Final Lease was contingent on the execution of a share purchase agreement between the parties?

[51] CFL argues that the unsigned share purchase agreement and the Final Lease are inextricably intertwined. Thus, CFL contends that the binding nature of the Final Lease was contingent on the parties concluding a share purchase agreement.

[52] That argument is not supported by the facts offered at trial. It is well to recall that Wadhwa never testified at trial. In fact, the only *viva voce* evidence at trial came from Ryan. McKenna did offer a written witness statement, which did not touch on this issue and which was not the subject of cross examination.

[53] Ryan's uncontroverted evidence at trial was that Wadhwa approached him about buying the Premises. His evidence in that regard was as follows:

Q. Okay. And did he come talk to you about buying the building?

A. Yeah. So we, we, we were, came and talked to, he says we, you know, the building that we bought has quickly become too small. So they looked at purchasing our building and also renting office space because they didn't have enough space in their existing building for all of their administration staff and things.

Q.	Do you recall when those early discussions, negotiations started approximately?
A.	Probably the spring of 2019.
THE COURT:	To buy the building, right?
A.	Correct. Well, both…
THE COURT:	Both.
A.	…were kind of done simultaneously.
THE COURT:	Okay.
A.	Yeah.
M. KELLY: Q.:	Was there, was there a reason he did both, or?
A.	He did both. He just verbalized, he says, like, just in case we can't come to a deal on, on the, on the, the building, either way I need office space for my staff.

[54] Ryan's evidence regarding his conversation with Wadhwa regarding CFL's intention to both purchase the Premises and rent them in any event is admissible evidence of that intention under s. 27(1) of the *Courts of Justice Act*. That provision allows the Small Claims Court to "admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious."

[55] That evidence is also uncontradicted in the evidence presented at trial.

[56] I add that nothing in the Final Lease makes its enforceability contingent on the signing of a share purchase agreement.

[57] Accordingly, it was open to the Deputy Judge, on the evidence before her, to find that the Final Lease existed, that it was binding on the parties and that it was not

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contingent on the signing of a share purchase agreement. Those findings did not amount to a palpable and overriding error.

<u>Issue No. 4:</u> Were the Deputy Judge's reasons sufficient to explain her finding that a binding commercial lease existed between the parties?

[58] CFL argues that the Deputy Judge's reasons were insufficient. CFL asserts that the Deputy Judge did little more than set out the positions of the parties and her conclusions. In the alternative, CFL argues that those reasons contain a palpable and overriding error or an error in law.

[59] CFL argues that the Deputy Judge failed to explain why she found that the parties agreed to the terms of the Final Lease or if she did, she made a palpable and overriding error or error in law.

[60] CFL cites the decision of the Court of Appeal of Ontario in *Farej v. Fellow*, 2022 ONCA 254, where Doherty J.A. wrote for the court at para. 43:

> **43** A submission that trial reasons are legally inadequate does not necessarily attack the sufficiency of the evidence, the reasonableness of the factual findings, or allege legal errors in the trial judge's analysis. Rather, the submission that reasons are inadequate amounts to a claim that proper substantive review of the trial judge's reasons is foreclosed by the inadequacy of those reasons. In other words, counsel cannot effectively make arguments about the sufficiency of the evidence, the reasonableness of the fact finding, or alleged errors in law because the reasons of the trial judge do not provide the window into the trial judge's conclusions and reasoning process necessary to make those arguments.

[61] Undoubtedly, inadequate reasons, which foreclose appellate review, cannot stand. But CFL's submissions ignore both the adequacy of the analysis found in the reasons offered by the Deputy Judge and the unique status of the Small Claims Court. That status is reflected in s. 25 of the *Courts of Justice Act*, which states:

> **Summary hearings**
> **25** The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience.

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[62] In *Maple Ridge Community Management Ltd. v. Peel Condominium Corp. No. 231*, 2015 ONCA 520, 389 D.L.R. (4th) 711, the Court of Appeal for Ontario considered the issue of the sufficiency of reasons within the context of the Small Claims Court. In that case, the Divisional Court had found that the deputy judge's reasons were inadequate to allow appellate review, but the Court of Appeal set that finding aside.

[63] In doing so, the Court of Appeal set out the applicable law regarding the sufficiency of reasons in the Small Claims Court as follows:

1. It reiterated its statement in *Law Society of Upper Canada v. Neinstein*, 2010 ONCA 193, setting out the principle "that in order to permit meaningful appellate review, the reasons of a court must adequately express 'what' was decided and 'why' it was decided": *Maple Ridge*, at para. 24.

2. "The level of requisite detail in reasons will be lessened '[w]here the record discloses all that is required to be known to permit appellate review': *Hill v. Hamilton-Wentworth Police Services Board*, 2007 SCC 41, [2007] 3 S.C.R. 129, at para. 101. If a detailed record is available, the appellate court should not intervene 'simply because it thinks the trial court did a poor job expressing itself': *R. v. Sheppard*, 2002 SCC 26, [2002] 1 S.C.R. 869, at para. 26": *Maple Ridge*, at para. 31.

3. While Small Claims Court reasons must be sufficiently clear to permit judicial review as set out above, "appellate consideration of Small Claims Court reasons must recognize the informal nature of that court, as well as the volume of cases it handles and its statutory mandate to deal with these cases efficiently. In short, in assessing the adequacy of the reasons, context matters: *Massoudinia v. Volfson*, 2013 ONCA 29, at para. 9.": *Maple Ridge*, at para. 35.

4. "Just as oral reasons will not necessarily be as detailed as written reasons, reasons from the Small Claims Court will not always be as thorough as those in Superior Court decisions. Failing to take the Small Claims Court

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context into account only serves to restrict access to justice by unnecessarily imparting formality and delay into a legal process that is designed to be informal and efficient”: *Maple Ridge*, at para. 35.

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Sufficiency of Reasons

[64] Having reviewed the reasons of the Deputy Judge, I find that they meet the requirements set out in *Maple Ridge.* The Deputy Judge does more than set out the positions of the parties and then offer a conclusory result. She sets out the evidence provided by the parties and analyses it in light of the arguments raised.

[65] For example, the key issue raised at trial was whether the Final Lease was valid because alternations made to the Draft Lease were so material that the Final Lease was void. The Deputy Judge grappled with that issue with reference to the evidence, writing at paras. 6-7 as follows:

> 6. The corporate Defendant did not attend the trial but Mr. Tackaberry [agent for CFL] argues the alterations were material such that the contract should be considered void. I reject that submission, and it is not borne out on the evidence adduced at trial. McKenna’s statement (Exhibit 1, Tab 39) clearly confirms Ryan’s testimony and sets out the parties [sic] intentions and actions. The parties were ad item until the corporate Defendant unilaterally changed their mind and decided to breach the contract without cause. I do not find the argument that one of the emails was missing a date was at all persuasive in favour of the defendant.
>
> 7. I accept as credible and reliable the CR’s evidence of incurred costs to change the units, take down the walls, pay for electrical to adjust et al. The Defendant unilaterally chose not to honor the lease, did not move in on September 1, 2019, and did not pay any monies. This is proven by the emails in Exhibit 1 as well as the witness statement of McKenna…

[66] The Deputy Judge then looked to the application of the law to the facts as she found them, writing at paras. 9-10:

> 9. The crux of the issue at trial is material alterations to a contract. *Aditcorp Holdings Inc. v. 2535679,* 2022 ONSC 854 para 31 Justice

> Cavanaugh notes that the alteration "must make a significant difference in favour of the promise and the fundamental character of the contract or in the legal operation of the document". The alterations must be both material and prejudicial. In the case at bar, the parties each had clear intentions that were reflected in the eventual contract (once the term was adjusted to 1 year lease). None of the additions were material, but merely technical and designed to reflect both parties [sic] intentions. The defendant is not prejudiced by being required to honour their contractual agreements.

> 10. Regarding damages, I find the Plaintiff met the standard of reasonableness in attempting to mitigate the loss of the bargain/contract within the standards set out in OPB Realty Inc. v. PC Hearing Corp., 2024ONSC 2268. The Plaintiff has proven damages well in excess of our monetary limit.

[67] The key findings of fact set out above, express "'‘what' was decided and ‘why' it was decided". They make the Deputy Judge's reasons amenable to appellate review within the context of this appeal.

[68] Furthermore, the findings made by the Deputy Judge were available to her on the evidence presented at trial (especially recalling that Wadhwa did not testify at trial and CFL offered no *viva voce* evidence). I find no palpable and overriding error in the Deputy Judge's findings of fact and mixed fact and law. Further, I see no extricable error of law regarding issues of mixed fact and law.

Conclusion

[69] For the reasons set out above, I dismiss this appeal.

Costs

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[70] The parties were to attempt to agree on costs and get back to the court. They have not done so. The parties should now attempt to resolve the issue of costs on their own. If they are unable to do so, counsel for RW may submit its costs submissions of up to three pages, double spaced, one-inch margins, plus a bill of costs/costs outline and offers to settle within 14 days of release of this endorsement. Counsel need not include the authorities upon which they rely so long as they are found in the commonly referenced reporting services (i.e. CanLII, LexisNexis Quicklaw, or WestlawNext) and the relevant paragraph references are included. Counsel for CFL may respond in kind within a further 14 days. No reply submission will be accepted unless I request it. If I have not received any submissions within the time frames set out above, I will assume that the parties have resolved the issue and will make no costs order.

Electronic Signature of Justice Marvin Kurz

Date: April 1, 2026

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