

CITATION: Royal Bank of Canada v. 1737202 Ontario Inc. 2024 ONSC 5934
COURT FILE NO.: CV-23-00003580-0000
DATE: 20241001

SUPERIOR COURT OF JUSTICE – ONTARIO

491 Steeles Avenue East, Milton ON L9T 1Y6

RE: ROYAL BANK OF CANADA, plaintiff

AND:

1737202 ONTARIO INC.,
KHALID, QAISER, defendants

BEFORE: Justice Petersen

COUNSEL: SUTTNER, JOSH, for the plaintiff
jsuttner@airdberlis.com

NO ONE APPEARED, for the defendants

HEARD: October 1, 2024, by video conference

ENDORSEMENT

- [1] This is a motion for summary judgment brought by the plaintiff RBC.
- [2] The defendants filed a Statement of Defence to RBC’s Statement of Claim, and agreed to a timetable for exchange of materials for this motion, but have not filed any responding motion materials, and did not appear for the motion hearing today, although duly served.
- [3] The plaintiff filed a comprehensive motion record and factum. I am persuaded by the evidence in the motion record that there is no genuine issue requiring a trial of this action.
- [4] The corporate defendant executed a Credit Agreement with RBC and the personal defendant executed a Personal Guarantee. Both defendants then defaulted in respect of their contractual obligations to RBC. They subsequently

entered into a Forebearance Agreement with RBC, with the benefit of independent legal advice. The Forebearance Agreement affirms the enforceability of the Credit Agreement and Personal Guarantee. The defendants also defaulted on their obligations under the Forebearance Agreement.

- [5] The defendants pleaded two defences in their Statement of Defence, but failed to adduce any evidence in support of the defences in this motion. In a summary judgment motion, a responding party cannot simply rely on its pleadings. Pleadings without evidence do not give rise to a genuine issue for trial. The plaintiff is not required to negate defences that are not supported by evidence on the motion: *KVM Investments Ltd. v. Isabella*, 2022 ONSC 4125, at paras. 2, 24, 25 and 27.
- [6] The uncontested evidence in the motion record establishes that the defendants owe the plaintiff the amount of \$394,121.61 as of September 5, 2023, plus interest accrued, and all fees and expenses incurred (including full indemnity legal expenses) in the enforcement of the agreements.
- [7] The plaintiff is entitled to summary judgment in the circumstances.
- [8] An Order for judgment in the plaintiff's favour will issue, in the amount noted in paragraph 6 above. The interest amounts owed by the defendants shall be calculated in accordance with the terms of their respective agreements (i.e., the Credit Agreement and the Personal Guarantee), namely:
- a. as against the corporate defendant, pre-judgment interest from September 5, 2023 to the date of judgment, calculated at a rate equal to RBC's prime interest rate (RBP) plus 1.75% per annum; and post-judgment interest at the rate of RBP plus 1.75%; and
 - b. as against the personal defendant/guarantor, pre-judgment interest from September 5, 2023 to September 13, 2023 at the rate or RBP plus 1.75%; pre-judgment interest from September 15, 2023 to the date of judgment,

calculated at a rate equal to RBP plus 5%; and post-judgment interest at the rate of RBP plus 5%.

- [9] In accordance with the provisions of the parties' agreements, the plaintiff is entitled to its costs of this motion and of the underlying action on a full indemnity basis. The plaintiff's Bill of Costs and Costs Outline show that its counsel charged reasonable hourly rates and worked efficiently. The total of amount of costs (\$16,868, all inclusive) is reasonable and proportionate to the issue in dispute.

Petersen J.

Released: October 1, 2024

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B E T W E E N:

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Plaintiffs

- and -

1737202 ONTARIO INC.,
KHALID, QAISER

Defendants

Endorsement

Petersen J.

Released: October 1, 2024