

**CITATION:** Extend Financial v. Naeimi-Manesh, 2024 ONSC 6915  
**COURT FILE NO.:** CV-23-00703548-0000  
**DATE:** 20241212

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** EXTEND FINANCIAL LTD., Plaintiff  
  
– and –  
  
SAEID NAEIMI-MANESH, Defendant

**BEFORE:** E.M. Morgan J.

**COUNSEL:** *James Butson*, for the Plaintiff  
*Esmaeil Mehrabi*, for the Defendant

**HEARD:** December 11, 2024

**SUMMARY JUDGMENT**

[1] The Plaintiff's claim relates to a Home Equity Line of Credit dated September 9, 2021, entered into with Bankright Financial Ltd., and executed by the Defendant, for \$256,000.00 and a maturity date of August 1, 2023. The Plaintiff, as lender, seeks summary judgment against the Defendant, who is in default.

[2] As further collateral security for this loan, the Defendant gave to Bankright Financial Ltd., a Charge/Mortgage over a property at 45 Sunrise Avenue, Unit 1210, North York, Ontario. The Mortgage secured the principal sum of \$256,000.00 and interest at the rate of 10.49% per annum calculated daily on any outstanding balance, not in advance. Bankright Financial Ltd. subsequently changed its name to Extend Financial Ltd.. The Mortgage was renewed and amended by agreement dated the October 14, 2022.

[3] The Defendant is himself a mortgage broker. The mortgage agent who brokered the deal was the Defendant's employer at the time, Kay Asadi. Both the Plaintiff and the Defendant were represented by lawyers in negotiating and entering into the Mortgage.

[4] The Defendant defaulted in payment of instalments of interest on June 1, 2023. That default continues until today.

[5] The Defendant now denies that he entered into the Mortgage with the Plaintiff. However, the record before me in this motion says otherwise. On September 14, 2021, three days prior to the

registration of the Charge and the advance of funds, the Defendant signed an Acknowledgements and Request for Funds which confirms that the sum of \$256,000.00 – the total sum of the Mortgage – was to be advanced by the Plaintiff. All of the Mortgage documents are duly signed by the Defendant (some by hand, some digitally). Furthermore, the Defendant acknowledges having been identified as the “mortgage agent” in the mortgage commitment and admits to having received commissions on his own financing in the sum of \$2,000.00.

[6] In accordance with the Defendant’s instructions as set out in a Letter of Direction and Re-Direction signed by the Defendant, the Mortgage funds were forwarded by the Plaintiff to the Defendant’s solicitor, Moosavi Law PC, in trust. Moosavi then forwarded the funds to the Defendant’s employer, Asadi, for investment on behalf of the Defendant. In an email to the Plaintiff’s solicitors on July 4, 2023, the Defendant specifically acknowledged that the Plaintiff’s funds were used to fund an investment with Asadi. On cross-examination, the Defendant also acknowledged that he was aware that when he was signing the Re-Direction that the funds would be going to Moosavi and, importantly, acknowledged that Moosavi did, in fact, receive the funds from the Plaintiff.

[7] The Defendant has raised a number of allegations against his solicitor, Moosavi, and his employer, Asadi. I am advised by counsel that Ms. Moosavi is, in fact, Ms. Asadi’s daughter. But that is not relevant to the Defendant’s position vis-à-vis the Plaintiff. Ms. Moosavi is a member of the Ontario bar and was representing the Defendant with all of the duties of a solicitor engaged in such a transaction. It was the Defendant himself who chose her as his lawyer, not the Plaintiff. The Plaintiff is justified in perceiving that the Defendant had proper legal advice in entering the Mortgage.

[8] A review of the record reveals that there can be no serious allegation that the Mortgage funds were not advanced by the Plaintiff in accordance with the signed Direction and Re-Direction. The funds were advanced, default under the terms of the Mortgage has occurred, and the Plaintiff is entitled to a remedy. There is no credible defense to the enforceability of the Mortgage by the Plaintiff, and no credible dispute as to the amount owing by the Defendant thereunder.

[9] The real dispute here is between the Defendant and other parties. In a nutshell, he borrowed money from the Plaintiff, and lent that money, at a higher rate of interest, to Ms. Asadi. The Defendant seems to say that Ms. Asadi has defaulted in repayment to him, and so he has no obligation to repay the Plaintiff.

[10] There is no legal basis to the Defendant’s position. The real dispute here is between the Defendant and Ms. Asadi and Ms. Moosavi. I understand that in a companion action (Court File No. CV-23-00708125), the Defendant contends that Ms. Asadi convinced him to sign the Mortgage and that she would cover it. He also alleges in that action that Ms. Moosavi breached her duties owed to him as a lawyer in the transaction between him and Ms. Asadi as well as in the Mortgage transaction with the Plaintiff. Much of the Defendant’s current frustration seems to stem from the fact that Ms. Asadi has apparently gone into bankruptcy, and so the action against her is

now stayed. He is therefore attempting to use his defense in the present action as a way of airing his claims against Ms. Asadi.

[11] The Defendant argues that the Plaintiff knows Ms. Asadi from previous (unrelated) transactions, and that the Plaintiff probably knew that Ms. Asadi would cover for him. But there is nothing in the record that actually counters the signed Mortgage documentation and the fact that the Defendant was advised by counsel. Counsel for the Defendant submits says that the Plaintiff's lawyer in the transaction, Laith Hahn, might have somehow been in collusion with Ms. Asadi, because he appears to have been a lawyer on transactions involving her in the past.

[12] Defendant's counsel complains that the Plaintiff is asserting solicitor-client privilege so that the Defendant cannot look through Mr. Hahn's file to see if he can find any evidence of collusion. With respect, that is not how the discovery and evidentiary process works. A party is not obliged to waive privilege so that the opposing party can fish for evidence in the solicitor's file. The Plaintiff is entitled to invoke solicitor-client privilege with respect to his own lawyer's file on the transaction in issue, and, in any case, there is nothing that anyone has pointed me to in the record to suggest that the Defendant is correct in his suspicions.

[13] Plaintiff's counsel has pointed out to me that the Defendant has stated that he has been "swindled", but that in cross-examination he could not, or would not, say how the Plaintiff – as opposed to Ms. Asadi and Ms. Moosavi – took part in that supposed swindle. Given that this allegation is, in effect, the Defendant's entire ground of defense, this refusal is telling.

[14] The Mortgage is enforceable and is due and payable.

[15] Separately, Defendant's counsel submits that the 3 months' accelerated interest on default which is contained in the Mortgage is not enforceable. Without addressing that legal question, Plaintiff's counsel has indicated that his client will waive those 3 months' interest.

[16] The Plaintiff seeks costs in the amount of \$28,801 in respect of the motion. I believe that is meant to be on a substantial indemnity basis, although that is not specified in the Bill of Costs. The Defendant has submitted a Bill of Costs that indicates that he would seek \$9,074 on a partial indemnity basis or \$13,013 on a substantial indemnity basis.

[17] Rule 57.01(1)(0.a) of the Rules of Civil Procedure indicates that costs are to reflect the principle of indemnity for the successful party, while Rule 57.01(1)(0.b) indicates that the amount of costs are not to exceed the reasonable expectations of the unsuccessful party. In my view, that combination of principles calls for a mid-point compromise in the two cost amounts at issue here. I will exercise my discretion under section 131 of the Courts of Justice Act to order that the Defendant pay the Plaintiff costs in the all-inclusive amount of \$\$18,000.

[18] Counsel for the Plaintiff is to send a draft judgment in Word format to my assistant. That judgment should calculate the precise amount owing under the Mortgage, with interest, up to and including the date hereof. It should also contain a per diem amount owing for every day thereafter

that the amount remains owing. In addition, it should separately indicate the amount of costs set out in the paragraph above.

Date: December 12, 2024

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**Morgan J.**