

COURT OF QUÉBEC
(Small Claim Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
Civil Division

N° : 500-32-726374-251

DATE : May 26, 2026

BEFORE THE HONOURABLE MÉLANIE JACQUES, J.C.Q.

9041-8534 QUÉBEC INC.
Plaintiff / Cross-Defendant
v.
BLVD IMMOBILIER
-AND-
GROUPE IMMOBILIER AGATE INC.
Defendants / Cross-Plaintiffs

JUDGMENT

[1] Plaintiff is a company that leases commercial spaces since 1987. Groupe Immobilier Agate Inc., also known under the name BLVD Immobilier (BLVD), is a real estate brokerage agency.

[2] In the fall of 2022, Plaintiff was seeking to lease a commercial space in its building located in Dollard-des-Ormeaux for a five-year term. In November, Plaintiff met with one potential tenant and the next day, a representative of BLVD called Plaintiff mentioning that he was the broker representing said potential tenant.

[3] On November 28, 2022, Plaintiff and BLVD entered into a conditional real estate brokerage agreement providing for the payment of a \$20,000 commission to BLVD

payable in two installments: (1) 50% at the signing of the lease; and, (2) 50 % after one year (Brokerage Agreement).¹

[4] Upon signing of the lease by the tenant, Plaintiff paid 50% of the commission stipulated in the Brokerage Agreement.²

[5] However, after seven months of occupancy, the tenant vacated the commercial premises and subsequently went bankrupt. Therefore, Plaintiff never paid the other half of the commission stipulated in the Brokerage Agreement.

[6] Plaintiff is seeking reimbursement of the portion of the commission it paid to BLVD, namely \$8,813.99. In fact, Plaintiff considers that it owes to BLVD the amount representing the commission for seven months of occupancy. According to Plaintiff, the commission specified in the Brokerage Agreement was conditional on the tenant occupying the rented premises for 60 months. Plaintiff adds that it would be unfair if it had to pay the entire commission provided for in the Brokerage Agreement when the tenant only stayed for seven months.

[7] BLVD refuses to refund the portion of the commission it has already received. BLVD claims to be entitled to the full commission as stipulated in the Brokerage Agreement, since it fulfilled the agreed services, namely finding a tenant for the Plaintiff, negotiating the rent and subsequently entering a commercial lease. Hence, not only does BLVD deny owing Plaintiff anything, but it also claims the payment of the remaining amount of the agreed commission, which is \$12,183.50.

QUESTIONS IN ISSUE

- [8] a) What is the agreement reached between the parties regarding the payment of BLVD's commission?
- b) What is the amount owed to each party, if applicable?

ANALYSIS

a) What is the agreement reached between the parties regarding the payment of BLVD's commission?

[9] The Court may only seek to interpret the contract between the parties to determine their common intention if it first concludes that the contract is ambiguous.³ However, it is

¹ Exhibit D-3.

² Exhibit P-5 and D-3.

³ *Uniprix inc. v. Gestion Gosselin et Bérubé inc.*, 2017 CSC 43, par. 34 et 35.

up to the trial judge, in exercising his or her judicial discretion, to determine whether there is ambiguity.⁴

[10] At this stage, the judge may consider the context surrounding the conclusion and performance of the contract to confirm the clarity of its terms. If the terms of the contract are clear, the judge's role is limited to applying them to the factual situation before him or her.⁵

[11] When determining the common intention of the parties at the time the contract was concluded, the Court considers the interpretation that the parties have already given it or that it may have received. In addition, article 1426 of the *Civil Code of Québec (C.C.Q.)*⁶ provides that, in interpreting the contract, account must be taken of the circumstances in which it was concluded and usage.⁷

[12] The subsequent conduct of the parties is an important tool for interpretation. Indeed, it demonstrates their understanding of the agreement reached.

[13] Furthermore, the principle set out in article 1425 C.C.Q. presupposes that there is always a common intention to be found. This is not always the case. It may happen that the parties, while genuinely having a common intention regarding the essential elements of the contract, have also agreed on certain ancillary clauses, while each, in their own mind, giving them divergent interpretations. In such a case, it is obviously not possible to rely on the common intention of the parties, since there is none. There is then no choice but to rely on the interpretation that best reconciles with the rest of the contract and the circumstances surrounding its conclusion.⁸

[14] Moreover, under Quebec law, parties who enter into a contract with one another have certain obligations toward each other. According to the *Civil Code of Quebec*, each party must act in “good faith” toward the other party.⁹ This means that the parties must conduct themselves honestly and refrain from doing anything that causes harm to the other party. As part of this obligation, the parties are sometimes expected to cooperate. The scope of this obligation depends on the type of contract they have concluded. Their obligation is greater if it is a “relational” contract rather than a “transactional” contract.¹⁰

⁴ *Éolelectric inc. v. Kruger, groupe Énergie, une division de Kruger inc.*, 2015 QCCA 365, par. 16.

⁵ *Uniprix inc. v. Gestion Gosselin et Bérubé inc.*, 2017 CSC 43, par. 36.

⁶ RLRQ, c. CCQ-1991.

⁷ *Sobeys Québec inc. v. Coopérative des consommateurs de Ste-Foy*, 2005 QCCA 1172, par. 59.

⁸ *3879607 Canada inc. v. Hôtel Cadim (Godin) inc.*, 2012 QCCA 792, par. 5; *Sobeys Québec inc. v. Coopérative des consommateurs de Ste-Foy*, 2005 QCCA 1172, par. 60; Jean PINEAU, Danielle BURMAN and Serge GAUDET, *Théorie des obligations*, 4^e éd., Montréal, Éditions Thémis, 2001, at n° 225.

⁹ Article 1375 C.C.Q.

¹⁰ *Churchill Falls (Labrador) Corp. c. Hydro-Québec*, 2018 CSC 46.

[15] We will now apply these principles to the evidence offered at trial.

[16] The disputed clause of the Brokerage Agreement reads as follows¹¹:

3) You have requested a flat brokerage real estate commission of \$20,000 [...] payable in two installments, 50% at the signing of the lease and 50% after one year.

4) We confirm our acceptance to pay the said requested brokerage after complying with the following:

A-Obtain your clients' signature of acceptance of all the contents of the letter of intent to lease.

B-The security deposit of \$9000 [...]

C-Copy of the specimen lease is initialed and signed [...]

D-The original commercial lease is initialed and signed [...]

E-Photo of two pieces of identification including driver's licence [...]

F-A copy of this document is signed by you confirming acceptance and returned to us.

[17] Concerning the interpretation of said clause, Plaintiff alleges the following:

- The Brokerage Agreement is conditional.
- When the Brokerage Agreement was signed, Plaintiff agreed to pay a total commission of \$20,000, as it understood that this commission was conditional on the Tenants occupying the rented premises for 60 months. In other words, Tenants had to stay for 60 months for Plaintiff to pay the full commission to BLVD.
- The \$10 000 paid in November was an advance paid in good faith on the commission for the 60-month lease.
- Plaintiff explained to BLVD the importance of securing a tenant for a 60-month term, hence the requirement to obtain a financial background check on any prospective tenants.
- BLVD reassured Plaintiff by providing previous financial background check.

¹¹ Exhibit D-3.

- Since it only received payment for 5 months of rent, it is neither fair nor reasonable for Plaintiff to have to pay the commission that was agreed upon for a 60-month lease.

[18] For its part, BLVD alleges the following:

- A few days before a meeting between the tenant and Plaintiff, BLVD wrote to Plaintiff to ask if payment of 5% of the total rent would be acceptable, since he had seen in a previous listing that Plaintiff had done so in the past.¹²
- The negotiations of the Brokerage Agreement and the lease took place very quickly over the course of a few days.
- The Brokerage Agreement was written by Plaintiff. Any ambiguity is attributable to Plaintiff.
- There is no clause stating that BLVD is liable for any default by the tenant. No warranty is provided under the Brokerage Agreement. BLVD can never guarantee that a tenant will not vacate the premises before the end of the lease.
- The commission was due in full upon signing the contract, but BLVD agreed to two equal installments spread out over time.

[19] Regarding the \$20,000 commission, the parties exchanged written communications on the topic¹³:

- November 22, 2022: BLVD asked Plaintiff to confirm by email that the commission owed would be \$10,000 at the signing of the lease and \$10,000 one year later.
- The day after, Plaintiff answered that it agreed with the contents of BLVD's email.
- On November 30, 2022, BLVD sent an invoice to Plaintiff requesting the « payment 1/2 » because of « la transaction sur la propriété ». BLVD indicated that the transaction amount was \$20,000, or \$22,995 including taxes. The next day, Plaintiff sent a check in the amount of \$11,497.50 to BLVD.
- Shortly after, Plaintiff provided the Brokerage Agreement, and BLVD signed it as is.

[20] The Court finds that both parties acted in good faith when they concluded the Brokerage Agreement. Neither party sought to take advantage of the other.

¹² Exhibit D-1.

¹³ Exhibit D-1.

[21] Furthermore, both parties are well-established companies whose representatives are experienced businesspeople.

[22] In the fall of 2022, after Plaintiff met with a potential tenant who was looking for a location to set up its gym, it received a call from a representative of BLVD. The latter mentioned that he was representing the potential tenant.

[23] Noting that Plaintiff had previously agreed to pay a commission equal to 5% of the total rent due, BLVD asked whether Plaintiff would agree to pay such a commission if a lease was signed. Plaintiff replied in the affirmative.¹⁴

[24] None of the correspondence exchanged between the parties refers to making the commission payable conditional on the tenant remaining in the leased premises for 60 months.

[25] The Brokerage Agreement, which was drafted by the party claiming the existence of such a condition, does not include it either.

[26] The Court concludes that this condition was never discussed between the parties. Besides, the expression “flat brokerage real estate commission” refers to a lump-sum payment for all services rendered by BLVD before the signing of the lease.

[27] The Court finds that the Brokerage Agreement is clear and does not require interpretation: the \$20,000 commission is payable in two installments, subject to certain conditions that do not include the requirement that the tenant remain in the leased premises for 60 months.

[28] Although it is conceivable that Plaintiff agreed to pay BLVD a commission in the hope that the tenant would remain in the leased premises for 60 months and that this expectation was not met, Plaintiff cannot use this as an argument to contravene the clear provisions of the Brokerage Agreement.

[29] Moreover, the Court concludes that, in the field of commercial leasing, it is foreseeable that a tenant might go bankrupt, which could result in the lease being terminated prematurely. Yet, Plaintiff, a company with over 30 years of experience in the commercial leasing industry, did not deem necessary to provide for what would happen to the commission payment under such a scenario.

[30] Under these circumstances, the Court cannot see how BLVD’s conduct could be considered to be in bad faith.

[31] While article 1434 of the *Civil Code of Quebec* may justify the courts to intervene on occasions to remedy unfair situations, no aspect of the relationship between Plaintiff

¹⁴ Exhibit D-1.

and BLVD justifies such intervention in the circumstances of this case.¹⁵ Both parties to the Brokerage Agreement were experienced.¹⁶

[32] The Court cannot ask BLVD to forgo a portion of its profits simply because Plaintiff's earnings were not as high as expected or as BLVD's.

[33] For these reasons, the Court concludes that the commission payable to BLVD was not conditional on the tenant remaining in the leased premises for 60 months.

b) What is the amount owed to each party, if applicable?

[34] Considering the answer to the previous question, the Court concludes that Plaintiff owes BLVD the amount of \$12,183.50. Furthermore, BLVD is not required to refund any portion of the commission already paid by Plaintiff.

[35] In fact, the terms of the Brokerage Agreement have been fulfilled, entitling BLVD to receive the full amount of the agreed-upon commission.

[36] Since Plaintiff has already paid half of the commission, it must pay the remaining half, which is \$12,183.50.

[37] The calculation of interests and additional indemnity will begin from the date of the filing of the Counterclaim, namely February 14, 2025, as BLVD did not send any letter of demand.¹⁷

FOR THESE REASONS, THE COURT:

DISMISSES 9041-8534 Québec inc.'s Application;

GRANTS BLVD Immobilier and Groupe Immobilier Agate inc.'s Cross-Application;

CONDEMNS 9041-8534 Québec inc. to pay to BLVD Immobilier and Groupe Immobilier Agate inc. \$12,183.50 plus interests at the legal rate and the additional indemnity under article 1619 C.C.Q. since February 14, 2025;

CONDEMNS 9041-8534 Québec inc. to pay to BLVD Immobilier and Groupe Immobilier Agate inc. the legal costs of \$374 for the Contestation and Cross-Application.

¹⁵ Doing so would be to indirectly introduce into our law the concept of lesion or, the theory of unforeseeability.

¹⁶ *Churchill Falls (Labrador) Corp. c. Hydro-Québec*, 2018 CSC 46.

¹⁷ Article 340 of *Code of Civil Procedure*.

MÉLANIE JACQUES, J.C.Q.

Date of hearing : January 27, 2026