

CITATION: 1000662603 Ontario Inc. v. Gizzarelli, and Gizzarelli v. 1000662603 Ontario Inc.
et al., 2026 ONSC 5103

COURT FILE NO.: CV-25-92469 and CV-26-93855

DATE: 2026-09-11

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

1000662603 Ontario Inc.

Applicant

J. Groves, Counsel for 1000662603 Ontario Inc.

– and –

Rito Gizzarelli

Respondent

D. Ebady, Counsel for Rito Gizzarelli

– and –

Rito Gizzarelli

Applicant

– and –

1000662603 Ontario Inc., Derrick Laffin,
and Beverly Bates

Respondents

J. Groves, Counsel for 1000662603 Ontario Inc., Derrick Laffin, and Beverly Bates

HEARD: September 2 and 4, 2026

REASONS FOR DECISION

M. BORDIN J.

Overview

[1] 1000662603 Ontario Inc. (the “Corporation”) and Rito Gizzarelli (“Rito”) have each brought an application against the other. Rito has added Beverly Bates (“Beverly”) and Derrick Laffin (“Derrick”) as respondents.

[2] The Corporation asserts that it has a valid and enforceable 5-year lease for Unit 2, 100 Nebo Road, Hamilton, Ontario (the “Premises”).

[3] Rito owns the Premises. He asserts that a month-to-month tenancy at will existed because no formal lease was signed. He alleges the month-to-month tenancy has been validly terminated. In the alternative, he alleges the lease has been terminated for default.

[4] On November 4, 2025, Valente J. granted a consent interim order for payment of rent and preventing Rito from re-entering the Premises or disturbing the Corporation's possession of the Premises. The order was without prejudice and not binding on the judge hearing the application on its merits.

[5] The first issue is the nature of the lease and its terms. The second is whether the parties breached the lease and its consequences.

The APS created a binding lease

[6] Whether an agreement is conditional on the signing of a formal contract is a matter of contractual interpretation: see *285 Spadina SPV Inc. v. 2356802 Ontario Corp.*, [2020 ONSC 1645](#), 18 RPR (6th) 299, at para. 139.

[7] As I will explain, I find that the Corporation and Rito entered into a lease of the Premises under the signed Agreement of Purchase and Sale dated September 27, 2023 (the "APS").

[8] The principles of contractual interpretation are set out in *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633, at paras. 47-49. The principles are succinctly summarized in *Corner Brook (City) v. Bailey*, [2021 SCC 29](#), [2021] 2 S.C.R. 540, at para. 20:

Sattva directs courts to "read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract": para. 47. This Court explained that "[t]he meaning of words is often derived from a number of contextual factors, including the purpose of the agreement and the nature of the relationship created by the agreement", but that the surrounding circumstances "must never be allowed to overwhelm the words of that agreement": paras. 48 and 57. "While the surrounding circumstances are relied upon in the interpretive process, courts cannot use them to deviate from the text such that the court effectively creates a new agreement": para. 57. This Court also clarified that the relevant surrounding circumstances "consist only of objective evidence of the background facts at the time of the execution of the contract. . . , that is, knowledge that was or reasonably ought to have been within the knowledge of both parties at or before the date of contracting": para. 58.

[9] The APS is a standard-form Ontario Real Estate Association ("OREA") agreement for the purchase of a business in leased premises. It contains customized terms in the standard-form portion and in Schedule A. Pursuant to the APS, the Corporation purchased from Rito a business known as Satellite Tire, which operated out of the Premises. The APS also provided for the lease of the Premises. The parties were not represented by lawyers in connection with the APS.

[10] The purpose of the APS was to sell a tire business that operated from the Premises. Rito was both the vendor of the business and the owner of the Premises. The parties knew this.

[11] At paragraph 7(c) of the APS, Rito covenanted that “there is a good, valid, and subsisting lease of the premises for a term of 5 years at a monthly rental of \$3,500” which expired on October 31, 2028 (“Rito’s Lease Covenant”). At paragraph 8(b) of the APS, Rito covenanted to deliver to the Corporation, at or before closing, the written consent of the lessor to the assignment of the lease of the Premises to the Corporation if such consent to the assignment was required by the terms of the lease (“Rito’s Assignment Covenant”).

[12] In Schedule A, the Corporation and Rito agreed on rent of \$3,500 per month, which included base rent, property taxes, and exterior maintenance for 5 years, as well as the Corporation's additional responsibilities under the lease. The Corporation was to pay the utilities and was responsible for repair and maintenance of the interior elements, snow removal, and a commercial tenant liability insurance policy.

[13] Schedule A to the APS provided that further terms and conditions of the “proposed lease” of the subject unit would be “outlined in a separate lease agreement which shall be completed before the completion date of this purchase agreement.” Notwithstanding this provision of the APS, the APS closed on October 31, 2023, with no lease agreement finalized or executed. No explanation is provided in the evidence as to why this was not done before closing.

[14] On closing, the Corporation took over the Satellite Tire business and Premises. Spencer Laffin, the Corporation's sole director and officer, operated the business.

[15] Rito essentially argues that the phrase “proposed lease” is the overriding consideration in determining whether he and the Corporation intended to enter into a binding lease by signing the APS. He asserts that the term “proposed lease” indicates the parties intended to require a separate signed document setting out the lease terms, and that no lease would arise unless the “proposed lease” was signed. He asserts that the APS sets out nothing more than an agreement to agree with respect to the lease and that the “proposed lease” was essential to the formation of the contract.

[16] However, the term referencing the “proposed lease” cannot be read in isolation. The rest of the APS, including Rito’s Lease Covenant, Rito’s Assignment Covenant, and the above-referenced provisions of Schedule A must also be considered. In other words, the APS must be read “as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract”: *Sattva*, at para. 47

[17] The APS provided that a portion of the purchase price was to be paid over 24 months in monthly installments of \$1,051 (the “Monthly Installment”). It makes commercial sense for the lease of the Premises to extend for at least 24 months rather than on a month-to-month basis. It makes no commercial sense to purchase a business operating from leased premises, with part of the purchase price payable monthly over two years, without assurance of a lease beyond a month.

[18] Rito’s Lease Covenant explicitly confirmed the existence of a 5-year lease with a monthly rent of \$3,500. Rito’s Assignment Covenant ensured the lease would be assigned. As the parties knew that Rito was both the owner and tenant, this gave further force to Rito’s Lease Covenant

and Assignment Covenant. Further, the opening text of Schedule A to the APS that was added to the OREA standard form provided that, so long as the Corporation was “not at any time in default of any covenants within the lease, [it] shall be entitled to renew this lease for additional term(s) of five (5) years” [emphasis added] on three months’ written notice at a rental rate to be negotiated. This is the first term in Schedule A that follows the standard form, which includes Rito’s Lease Covenant and Rito’s Assignment Covenant. The phrases “within the lease” and “this lease” indicate an existing lease. Schedule A then confirms the agreed-upon rent of \$3,500 per month and what it includes, and sets out the Corporation’s additional responsibilities under the lease.

[19] I find that a fixed-term lease was a fundamental term of the purchase. Purchasing an ongoing business operating out of leased premises, without the assurance that a lease existed and confirming the term of the lease, makes no business sense. Rito’s Lease Covenant addresses this issue – it confirms the existence of a lease, its 5-year term, and its October 2028 expiry. Rito’s Assignment Covenant addresses any requirement to obtain consent to the assignment of the lease. As noted, the APS also set out the terms of payment and the Corporation’s obligations, among other lease terms.

[20] The term “proposed lease” in one clause of the APS does not override the other terms in the APS, including Rito’s Lease Covenant, that refer to a lease and the particulars of the lease.

[21] Rito and the Corporation executed the APS. The APS set out the parties and the Premises to be leased. The parties to the APS understood that the Corporation would carry on the same tire business from the Premises. The APS set out the commencement date of the lease term, its duration, the possibility of renewal on notice, the rent to be paid, the obligations of the tenant, and all the material terms of the contract not being matters incident to the relation of landlord and tenant: see *Arc’Hair Texture Visible Changes Ltd. v. 419701 Ontario Ltd.*, 2004 CarswellOnt 9696, at para. 15, var’d on other grounds, 2006 Carswell Ont 7057. No essential terms of the lease were missing. Nor were the essential terms of the lease uncertain. They are all set out in the APS: see *Cohen v. Woodcliffe Corporation*, [2022 ONSC 5599](#), 2022 CarswellOnt 14337, at paras. 134-135.

[22] The APS, at para. 17, stated that the offer “when accepted shall constitute a binding agreement of purchase and sale and time shall in all respects be of the essence” [emphasis added]. Rito prepared an Indenture which is not inconsistent with the lease terms set out in the APS. He did not sign the Indenture. Rito says he provided the Indenture to Spencer before closing. Even if he did, he acknowledges that the APS closed without signing the Indenture or any other lease document. After closing, the Corporation took possession of the Premises and began operating Satellite Tire. The parties chose to close the APS and allow the Corporation to take possession of the Premises and operate the business without further formalizing any additional lease terms.

[23] Rito says that the Indenture contained essential protections he required for any automotive or tire-service tenant, including indemnity, insurance, repair allocation, lawful-use safeguards, and default and re-entry remedies. Except for insurance and repair allocation, which the APS addressed, I do not accept his evidence that he required these as mandatory lease terms. He did not insist on them before closing. Further, according to his own evidence, Rito was prepared to proceed with a month-to-month tenancy and did so for a year before he proposed a written lease in January 2025. These terms were not insisted on during the alleged month-to-month tenancy and were not included in the draft January 2025 Agreement to Lease that Rito provided to Beverly. Rito says

there were still terms to negotiate regarding the Indenture, including an alleged right of first refusal. Other than Rito's assertion, there is no evidence of this. The right of first refusal is not an essential term of the lease.

[24] Rito relies on the Indenture in the alternative. The Notice to Quit dated September 5, 2025, issued by Rito does not refer to the Indenture or any acts of default. Rito first relied on the Indenture after the Corporation commenced its application in late October 2025, and after Valente J.'s order, when Rito issued a Notice of Default dated November 24, 2025. That notice stated that it was issued in the alternative and without admitting that the Indenture is valid and binding. Further, Rito served a Notice of Termination of Lease dated January 7, 2026. That notice referenced "the lease" between Rito and the Corporation, not Beverly or Derrick, which was "dated November 1, 2023". The only document Rito and the Corporation executed was the APS.

[25] Beverly baldly deposes that "the Indenture accurately reflected the intentions of the Parties", but that "Spencer passed away before it could be signed". I do not accept this evidence. There is no evidence that Beverly participated in the business of the Corporation at the time the lease was entered into or had any direct knowledge of the "intention of the Parties".

[26] I find that the Corporation and Rito did not enter into the Indenture.

[27] Reading the APS as a whole, giving the words used their ordinary and grammatical meaning in harmony with the entirety of the APS, considering the purpose of the APS, the factual matrix, surrounding circumstances known to the parties at the time, and what is commercially sound and reasonable and makes business sense, I find the parties intended to create a 5-year lease on the terms set out in the APS. Specifically:

- a. lease of the Premises for a term of 5 years at a monthly rent of \$3,500 which expires on October 31, 2028;
- b. the monthly rent of \$3,500 included base rent, property taxes and exterior maintenance;
- c. the corporation was responsible for paying the utilities, for repair and maintenance of the interior elements, snow removal, and obtaining a commercial tenant liability insurance policy; and
- d. so long as the Corporation is not at any time in default of any covenants within the lease, it shall be entitled to renew the lease for additional term(s) of five years on at least three months' written notice at a rental rate to be negotiated.

[28] I find there is no ambiguity in the agreement. Therefore, the Corporation and Rito's subsequent conduct is not relevant to determining their intention at the time of contracting: see *Shewchuk v. Blackmont Capital Inc.*, [2016 ONCA 912](#), 404 D.L.R. (4th) 512, at para. 46; *Greenspan v. Van Clieaf*, [2023 ONCA 681](#), 487 D.L.R. (4th) 291, at paras. 48 and 51; and *SS&C Technologies Canada Corp. v. The Bank of New York Mellon Corporation*, [2024 ONCA 675](#), 500 D.L.R. (4th) 1, at para. 50, rev'd on other grounds, [2026 SCC 29](#), 516 D.L.R. (4th) 199. If I am mistaken about ambiguity, I would find that their subsequent conduct confirms they intended to contract on the terms of the APS.

[29] The most compelling subsequent conduct occurred immediately after closing. The Corporation took possession of the Premises, operated the business, and paid \$3,500 rent for November 1, 2023, and December 1, 2023. Rito issued receipts to “Satellite Tire”, the operating name of the Corporation, and Spencer for “\$3500 + 1045”. On the December 1, 2023, receipt, the words “Dec Rent” appear under “\$3500” and “Dec Payment” under “\$1045”. Although slightly less than the Monthly Installment amount, I infer that \$1,045 refers to the Monthly Installment payment.

[30] Spencer was shot and killed on the Premises on December 11, 2023. The Corporation was carrying on business at the Premises at the time of Spencer’s death.

[31] The business continued to operate out of the Premises. Otherwise, the parties’ evidence diverges after Spencer’s death.

[32] Rito says the tenancy became month-to-month. He states in his affidavit that he “permitted” Derrick and Beverly to continue operating the business and to remain in possession. He states that he “did not pursue the remaining Purchase Balance and instead entered into a new oral agreement with Derrick and Beverly as lessees of the Premises”. He further states that this “was not a continuation of the APS but a new commercial lease on a month-to-month basis”. On his own evidence, until that point, Rito was operating under the terms of the APS.

[33] On the other hand, Beverly says that the corporation continued to operate the business from the Premises pursuant to the APS or, in the alternative, the Indenture.

[34] The Court of Appeal for Ontario’s summary in para. 50 of *Greenspan* of the risk of relying on subsequent conduct applies to the facts before me:

For example, “the parties’ behaviour in performing their contract may change over time. Using their subsequent conduct as evidence of their intentions at the time of execution could permit the interpretation of the contract to fluctuate over time”: *Shewchuk*, at para. 43. In addition, the subsequent conduct itself may be ambiguous: see *Shewchuk*, at para. 44. Finally, “over-reliance on subsequent conduct may reward self-serving conduct whereby a party deliberately conducts itself in a way that would lend support to its preferred interpretation of the contract”: *Shewchuk*, at para. 45.

[35] The evidence of the parties as to what occurred after Spencer’s death is conflicting and their conduct is ambiguous. Rito’s evidence is self-serving and, in part, contradicted by the documentary evidence. Beverly’s affidavit evidence is contradicted in some respects by Derrick’s evidence under oath. None of the evidence as to what followed Spencer’s death is particularly credible or reliable. I place no reliance on what Rito asserts happened after Spencer’s death or on the parties’ evidence regarding their understanding of the status of the lease.

[36] Shortly after Spencer was shot and killed, Rito told Spencer’s parents, Beverly and Derrick, that no executed lease existed and a new arrangement with them personally was required. If true, this breached the lease with the Corporation. Spencer’s death did not void the lease. On January 1, 2024, Rito says he told Beverly and Derrick that if they wanted to remain in possession, it would be only on a month-to-month basis. Again, this would be a breach of the lease with the Corporation.

[37] Rito deposes in his November 24, 2025, affidavit and submits that he, Beverly, and Derrick agreed to rent of \$4,551 per month. Rito also relies on Derrick's examination evidence that the total amount paid was for rent and that he was the tenant. I reject Rito and Derrick's evidence.

[38] The alleged rent of \$4,551 equals the \$3,500 rent, plus the \$1,051 Monthly Installment. Rent payments were made in cash from the business operations. Rito issued receipts. Rito makes much of Derrick making the payments to support his assertion that the Corporation no longer had a lease. I do not accept this. Individuals can make payments on behalf of a corporation, especially when the payments are in cash.

[39] The receipts contradict Rito's assertion that Beverly and Derrick entered into a month-to-month tenancy with him and began making payments directly rather than through the Corporation. As noted, Rito made out the receipts for the first two months to Satellite Tire and Spencer. After Spencer died, Rito continued to make out the receipts to Satellite Tire, but he added Derrick instead of Spencer, except for the January and February 2024 receipts, which were also made out to Beverly. What is consistent throughout is that the receipts were made out to Satellite Tire.

[40] Like the December 2023 receipt, the January 2024 receipt stated there was a payment of "\$3500 + \$1045". The February receipt referred only to rent of \$4,545. The March through June receipts indicated rent payments of \$4,551. This is consistent with \$3,500 for rent, plus the \$1,051 Monthly Installment. I find that the payments made constituted \$3,500 for rent, plus the \$1,051 Monthly Installment.

[41] The evidence establishes that Derrick believed that Rito was trying to force the business out of the Premises for more rent. He understood that they had to pay the rent demanded or they would be kicked out.

[42] Derrick's understanding of the tenant's identity is anything but clear. In his examination transcript filed with the applications, he states that he understood he was the tenant because "they" were paying the rent. He says that Beverly is the tenant because she "owns it". He says he is not the tenant; he is the manager. He says he just kept the business going.

[43] Whatever Derrick said he believed about who the tenants were or the amount of the rent is not determinative, as the lease belonged to the Corporation – not Derrick or Beverly. Neither could deprive the Corporation of the right to the Premises.

[44] Rito raises issues about the Corporation's corporate governance, authority to act for the Corporation, control over the Corporation, and share ownership after Spencer's death. The Corporation filed a Notice of Change stating that Beverly and Spencer's former partner were appointed directors in place of Spencer as of December 12, 2023, the day after Spencer's death. Rito asserts that no formal or proper election occurred and that the Notice of Change was improperly backdated. None of these issues affect whether a valid and binding lease existed with the Corporation. Rito knew that he had contracted with the Corporation.

[45] Until Spencer's death, the evidence demonstrates that the parties carried on pursuant to the terms of the APS. What is not ambiguous is that, after Spencer's death, rent continued to be paid, Rito made the receipts out to Satellite Tire, the Monthly Installment payments continued until all

24 payments were made, and Satellite Tire continued to operate out of, and remained in possession of the Premises.

[46] In January 2025, 14 months after the Corporation occupied the Premises, Rito proposed a written draft Agreement to Lease naming Beverly as the tenant. That document sought to substantially increase the rent and reduce the term. It was never signed. As a result, in February 2025, Rito told Derrick and Beverly that they had to leave the premises by May 2025. Rito says Derrick agreed. However, they did not leave, and on April 2, 2025, the Corporation, through its lawyer, responded and asserted a lease pursuant to the APS. The parties carried on as before. Both Rito's September 5, 2025, Notice of Default and January 7, 2026, Notice of Termination were addressed to the Corporation, care of Beverly and Derrick.

[47] Assuming that the parties' subsequent conduct was relevant, I find it supports the conclusion that the Corporation and Rito had reached a lease agreement in accordance with the terms in the APS.

Breach of the lease and relief from forfeiture

[48] In November 2025, the Corporation produced Certificates of Insurance for Commercial General Liability Insurance for the Premises confirming it was in place since November 2023, except for 9 days at the outset of the tenancy. Rito was not named as an additional insured in the policy until November 2025.

[49] Rito asserts the following entitle him to terminate the tenancy:

- a. failure to maintain insurance during the 9-day gap at the beginning of November 2023;
- b. failure to name him as an additional insured;
- c. failure to produce proof of insurance; and
- d. breaches of the Indenture's insurance provisions

[50] Rito deposes that an essential protection he required for any tenant operating a tire service or automotive business at the Premises is commercial general liability insurance naming him as an additional insured. Notably, neither the APS nor the draft January 2025 Agreement to Lease required naming Rito as an additional insured. I do not accept his evidence that he was required to be added as an additional insured. I find no breach for failing to name Rito as an additional insured before November 2025.

[51] Rito asserts other insurance-related breaches of the Indenture. He submits the Corporation failed to maintain cross-liability coverage and severability of interest for Rito's benefit, plate glass insurance, and business interruption insurance. The APS did not require the Corporation to maintain such coverages. I also note that the January 2025 draft Agreement to Lease provided by Rito omits any requirement for such coverages. These other breaches alleged by Rito depend on the Indemnity being binding on the parties. I have found it is not.

[52] Rito also asserts that he repeatedly requested a certificate of insurance from Beverly and Derrick, but they failed to provide one. Rito has not produced any written documentation to show that he repeatedly requested a certificate of insurance from Beverly and Derrick. I do not accept his self-serving evidence that he did. However, I will consider this allegation as though it were true, together with the 9-day gap in tenant insurance coverage during the first 9 days of the lease, and consider whether it entitles Rito to terminate the lease and whether the Corporation is entitled to relief from forfeiture.

[53] Entitlement to terminate the lease on breach of the insurance requirement is not explicitly set out in the APS. For this analysis, I assume it is an implied term.

[54] The corporation seeks relief from forfeiture under s. 20(1) of the *Commercial Tenancies Act*, RSO 1990, c. L.7 (“CTA”). That section reads:

Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the lessee may, ... apply to the court for relief, and the court may grant such relief as, having regard to the proceeding and conduct of the parties under section 19 and to all the other circumstances, the court thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future as the court considers just.

[55] Relying on s. 20(8) of the CTA, Rito asserts that the court cannot remedy the Corporation’s failure to have tenant insurance in place as required by the lease. Section 20(8) of the CTA states:

Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not an insurance on foot in conformity with the covenant or condition to insure except, in addition to any other terms that the court may impose, upon the term that the insurance is effected.

[56] Section 20(8) of the CTA does not prevent the Corporation from relying on section 20(1). At the time of the application for relief, insurance was in place and had been for over two years. In any event, the court can exercise its discretion to grant relief from forfeiture even if there was no insurance in place and can require compliance with the insurance requirement as a condition of relief from forfeiture: *Tauro v. Yu*, [2018 ONSC 7319](#), 2018 CarswellOnt 20777, at paras. 74-83.

[57] The Court of Appeal for Ontario summarized the principles applicable to relief from forfeiture in *Hudson’s Bay Company ULC Compagnie de la Baie D’Hudson SRI v. Oxford Properties Retail Holdings II Inc.*, [2022 ONCA 585](#), 163 O.R. (3d) 81, at paras. 35-38:

[35] A tenant seeking relief from forfeiture must convince the court that it would be inequitable in the circumstances to permit the landlord to exercise its rights under the lease, terminate the lease and take possession of the property. Not surprisingly, relief from forfeiture is granted sparingly: *Ontario (Attorney General) v. 8477 Darlington Crescent*, [2011 ONCA 363](#), at 87; *Hunt’s Transport Limited v. Eagle Street Industrial G.P. Inc.*, [2020 ONSC 5768](#), at 63.

[36] Relief from forfeiture is a discretionary equitable remedy which responds to the circumstances of the individual case. The case law has identified a variety of criteria to be taken into account in determining whether to grant relief from forfeiture in various contexts: e.g., see *Saskatchewan River Bungalows Ltd. v. Maritime Life Assurance Company*, 1994 CanLII 100 (SCC), [1994] 2 S.C.R. 490, at 504; *Liscumb v. Provenzano* (1985), 1985 CanLII 2051 (ON HCJ), 51 O.R. (2d) 129, at 137 (S.C.), aff'd 1986 CanLII 2595 (ON CA), 55 O.R. (2d) 404 (C.A.); *The Second Cup Ltd. v. 2410077 Ontario Ltd.*, at 56-59. The relevant factors can be grouped into two broad categories. The first concerns the conduct of the parties and the second, the impact on the parties of either granting or refusing the request for relief from forfeiture.

[37] Given the equitable roots of relief from forfeiture, it is not surprising that the conduct of the parties will weigh heavily in the balance in the s. 20 analysis. For example, a tenant's deliberate refusal to pay its rent obligations may well preclude any relief from forfeiture: e.g., *1383421 Ontario Inc. v. Ole Miss Place Inc.* (2003), 2003 CanLII 57436 (ON CA), 67 O.R. (3d) 161, at 80; *Ross v. Eaton Co.* (1993), 1992 CanLII 7470 (ON CA), 11 O.R. (3d), 115-125 (C.A.).

[38] Relief under s. 20 is also available when the landlord's interests under the lease can be fully vindicated without resort to forfeiture. If the bargain as reflected in the lease can effectively be maintained without resort to forfeiture, the court will grant relief under s. 20: *A.G. (Ontario) v. 8477 Darlington Crescent*, at 87; *1497777 Ontario Inc. v. Leon's Furniture Ltd.*, 2003 CanLII 50106 (ON CA), [2003] O.J. No. 3708, 67 O.R. (3d) 206, at 69.

[58] Section 19(2) of the CTA provides that a right of re-entry or forfeiture under a lease for a breach of any covenant or condition in the lease, except for non-payment of rent, is not enforceable unless the lessor has served on the lessee a notice specifying the breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach. The first formal notice of a breach of the requirement to maintain insurance was in the November 24, 2025, Notice of Default, over two weeks after the Corporation provided the Certificates of Insurance to Rito.

[59] Insurance was in place as of November 9, 2023. The 9-day gap was at the outset of the tenancy. The Corporation has complied with all other lease terms. It paid rent, even when Rito demanded a rent increase. Beverly and Derrick caused the Corporation to do so in the face of the tragic death of their son two months after the Corporation purchased the business and occupied the Premises. They did so in the face of aggressive conduct and demands from Rito immediately after Spencer's death and during the course of the tenancy, including demanding a new agreement to continue occupation of the Premises right after Spencer's death, entering the premises unannounced, asserting the Monthly Installment is part of rent, and demanding a rent increase.

[60] I recognize that failure to maintain insurance required under a lease is significant. It exposes the landlord to risk. However, the brief period during which the Premises were not insured has resulted in no loss to Rito. The failure to have insurance in place during the first 9 days of the tenancy is not so grave or reprehensible as to terminate the tenancy or deny relief from forfeiture.

[61] Assuming Rito made verbal demands for proof of insurance, the same is true of the failure to provide proof of insurance in light of Rito's aggressive conduct toward Derrick and Beverly.

[62] Insurance is in place, and proof of insurance has been provided. Rito's interests under the lease have been fully vindicated. Rito's rights can be maintained by requiring the Corporation to provide proof of insurance each time it is renewed. On the other hand, termination will likely end the Corporation's business and result in a loss of the investment.

[63] It is inequitable in these circumstances to permit Rito to exercise his rights under the lease, terminate the lease, and take possession of the property. Relief from forfeiture is granted.

Overpayment of rent

[64] Rito says that on July 1, 2024, he increased the monthly rent and Beverly and Derrick began paying \$5,051 a month in rent. The receipts confirm this amount was first paid in July 2024. Beverly says that she and Derrick began paying rent of \$4,000 a month in response to Rito's threats and demands as outlined in her affidavit and because they felt fearful and felt they had no choice. Rito's imposing and threatening manner was demonstrated by the video of his interaction with Derrick tendered as an exhibit by Derrick and Beverly, notwithstanding Derrick's examination evidence to the contrary.

[65] I find the amount paid as of July 1, 2024, consists of \$4,000 in rent, plus \$1,051 in Monthly Installments.

[66] I find that Rito was not entitled to increase the rent and that there has been an overpayment of \$500 per month from July 2024 to the present.

Disposition

[67] Rito's application is dismissed. The Corporation's application is granted, and I make the following declarations and orders:

- a. that a valid and enforceable commercial lease exists between the Corporation and Rito for the Premises on the following terms:
 - i. a term of 5 years at a monthly rental of \$3,500 which expires on October 31, 2028;
 - ii. monthly rent of \$3,500 which includes base rent, property taxes, and exterior maintenance;
 - iii. the corporation is responsible for paying the utilities, for repair and maintenance of the interior elements, snow removal, and obtaining a commercial tenant liability insurance policy; and
 - iv. so long as the Corporation is not at any time in default of any covenants within the lease, it shall be entitled to renew the lease for additional term(s)

of five years on at least three months' written notice at a rental rate to be negotiated.

- b. the Notice to Quit and Notices of Default served by Rito are invalid and of no force and effect.
- c. the Corporation is entitled to relief from forfeiture;
- d. the Corporation is to provide Rito with proof of Commercial Liability insurance each time insurance is renewed and is, in accordance with the current policy, to maintain Rito as an additional insured;
- e. a permanent injunction restraining Rito from interfering with the Corporation's use and occupation of the Premises and from attending at the Premises without reasonable advance notice in writing for the duration of the lease;
- f. the Respondent is to accept receipt of all future rent payments by way of post-dated cheques;
- g. Rito is to repay to the Corporation the overpayment of rent of \$500 per month from and including July 2024 to the date of this judgment, failing which, the Corporation may withhold the amount of such overpayment from future rent payments; and
- h. prejudgment interest on the overpaid rent pursuant to the *Courts of Justice Act* rate.

[68] If the parties cannot agree on the costs of the applications, the parties may exchange a bill of costs and written submissions consisting of no more than two double-spaced pages, together with excerpts of any legal authorities and any relevant offers to settle. All submissions are to be filed with the court and uploaded to Case Centre. If the court receives no submissions or written consent to a reasonable extension by October 9, 2026, the costs will be deemed settled.

Bordin J.

Released: September 11, 2026

CITATION: 1000662603 Ontario Inc. v. Gizzarelli, and Gizzarelli v. 1000662603 Ontario Inc.
et al., 2026 ONSC 5103
COURT FILE NO.: CV-25-92469 and CV-26-93855
DATE: 2026-09-11

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

1000662603 Ontario Inc. Applicant

– and –

Rito Gizzarelli Respondent

– and –

Rito Gizzarelli Applicant

– and –

1000662603 Ontario Inc., Derrick Laffin, and Beverly
Bates Respondents

REASONS FOR DECISION

M. Bordin J.

Released: September 11, 2026