



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-21-00673084-00CL DATE: 6 October 2022

NO. ON LIST: _____

TITLE OF PROCEEDING: **ROYAL BANK OF CANADA v. PEACE BRIDGE DUTY FREE
INC.**

BEFORE JUSTICE: **MADAM JUSTICE KIMMEL**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
SANJEEV MITRA	ROYAL BANK OF CANADA	smitra@airdberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
PATRICK SHEA	PEACE BRIDGE AUTHORITY	Patrick.shea@gowlingwlg.com
DAVID ULLMAN	PEACE BRIDGE DUTY FREE INC.	dullmann@blaney.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
LEANNE WILLIAMS	MONITOR	williams@tgf.ca

ENDORSEMENT OF JUSTICE KIMMEL:

1. A monitor has been appointed in respect of Peace Bridge Duty Free Inc. (the “tenant”) and a stay of proceedings was included in the appointment order.
2. The landlord, Peace Bridge Authority, wishes to schedule a motion in which it will seek leave to lift the stay of proceedings and various relief said to arise out of alleged historic and continuing breaches of the lease by the tenant. Its motion materials have been served.
3. The tenant has advised that there is a dispute about the proper interpretation of the lease and the calculation of rent payable, which in turn will form part of its response to the landlord’s motion. Further, to ensure that the determination of rent due and payable under the lease is properly before the court, the tenant anticipates a cross-motion for declaratory relief regarding the rent owing under the lease.
4. A half day hearing has been scheduled in this matter on December 9, 2022 commencing at 10:00 a.m. The start time should be confirmed with the commercial list office prior to the hearing date.
5. The tenant proposed a timetable for the exchange of materials for this motion and cross-motion. That timetable was not agreed to by the landlord and has not been provided to the court. Now that the motion date has been set, the parties are directed to work out a timetable that ensures that all pre-hearing steps have been completed, including focused cross-examinations, if necessary, and the exchange of facts, such that all materials are available and uploaded onto CaseLines at least four business days prior to the hearing date.
6. The tenant proposed a mediation as part of its timetable. The landlord has not agreed to a mediation and is concerned that it will delay the hearing of the motion(s). The court is not going to order the parties to attend a mediation between now and December 9, 2022 in a circumstance where one of the parties is not a willing participant, but encourages the parties to consider whether a mediation might prove fruitful after they have completed some of the pre-hearing steps, if time permits.
7. The Royal Bank of Canada will be seeking to move forward with its application for the appointment of a receiver for the tenant if the lease is invalidated. Counsel asked that this motion for the appointment of a receiver be scheduled to return on December 9, 2022 as well. If this is on consent or not opposed that may be something that can be put before the court on this return date. However, it is not realistic to expect that there will be sufficient time on December 9, 2022 for the court to also hear a contested receivership motion. If there are concerns arising from the request for the lifting of the stay of proceedings that tie into the receivership motion, the parties are encouraged to work out an agreement to preserve their respective positions so that the request for the stay to be lifted does not prejudice RBC in connection with any subsequent motion for the appointment of a receiver.
8. If the concerns of the Royal Bank cannot be worked out and a date is needed for a contested motion to appoint a receiver and interim relief to cover the period between December 9, 2022 and that subsequent motion date, the parties may request a further 9:30 scheduling appointment to address these further considerations, which should come before me if my schedule permits.

A handwritten signature in black ink, appearing to read "Kimmel J.", with a stylized, cursive script.

KIMMEL J.