

CIVIL FILE ENDORSEMENT SHEET

MOTION/DIRECTION/ORDER

Judge: A. Kaufman J.

Court File No.: CV-24-00000279-0000 (Kingston)

Short Case Name: BANK OF MONTREAL v. 1000130162 ONTARIO INC.

Christopher Staples, for Applicant(s) / Plaintiff(s)

N/A, for Respondent(s) / Defendant(s)

ORDER/JUDGMENT MADE

DIRECTION FOR REGISTRAR

ON CONSENT

UNOPPOSED

NO ONE APPEARED

ADJOURNED TO [Click here to enter a date.](#)

ENDORSEMENT:

The Bank of Montreal (BMO) seeks an order to appoint a receiver for the respondent, 1000130162 Ontario Inc., which operates a Pioneer gas station and is indebted to BMO for approximately \$2.7 million. This debt comprises a mortgage, a non-revolving demand loan, a revolving loan, and a corporate MasterCard. These loans fell into default in early 2024.

The respondent had promised to repay the loans by March 2024, but failed to do so, resulting in the termination of the banking relationship. By June 2024, the respondent claimed to secure refinancing from another lender, but this arrangement ultimately collapsed.

BMO requests the appointment of a receiver under section 243 of the *Bankruptcy and Insolvency Act* (BIA) and section 101 of the *Courts of Justice Act* to safeguard its security interests. BMO contends that a receiver is best positioned to determine whether 1000130162 Ontario Inc. should continue operations or liquidate its assets. MNP has agreed to serve as the receiver.

Mr. Ahmad, the respondent's principal, attended the hearing without filing any materials. He did not contest the debt owed to BMO. He informed the court of a potential sale of the business, suggesting that if successful, the debt to BMO could be repaid. This potential sale was news to BMO's counsel at the hearing.

Section 243 of the *BIA* provides that the court may appoint a receiver when it is "just and convenient". In this case, the BMO's Standard Charge Terms provide that:

Upon the occurrence of a Default, in addition to any other remedies available to the Mortgagee, the Mortgagee may by instrument in writing appoint a Receiver **G1** of all or any part of the Mortgaged Land and all rents, Incomes, profits and other

amounts now or hereafter arising therefrom. The Mortgagee may also apply to any court of competent jurisdiction for the appointment of a Receiver.

Where the relevant security document permits the appointment of a receiver, courts do not view the appointment of a receiver as an extraordinary remedy since it merely enforces a mutually agreed-upon contractual term (see *Elleway Acquisitions Limited v. The Cruise Professionals Limited*, 2013 ONSC 6866).

It is just and appropriate to appoint MNP as the Receiver in this case. The respondent has failed to fulfill its obligations under multiple security agreements, with these defaults persisting for over nine months and to this day. BMO is accordingly entitled under the Standard Charge Terms to appoint a receiver by instrument in writing and to institute court proceedings for the appointment of a receiver.

I conclude that the Applicant has shown it is both just and convenient to appoint MNP as Receiver for 1000130162 Ontario Inc. pursuant to section 243 of the BIA and section 101 of the CJA. The Application is granted, and the order is signed as presented.



Date: 19-Sep-24

Judge's Signature