

COURT OF APPEAL FOR ONTARIO

CITATION: NLG 2011 Inc. v. Central 1 Credit Union, 2014 ONCA 508

DATE: 20140627

DOCKET: C57886

Laskin, MacFarland and Lauwers JJ.A.

BETWEEN

NLG 2011 INC. formerly Island View Suites Limited

Applicant
(Appellant)

and

Central 1 Credit Union

Respondent
(Respondent in Appeal)

Michael S. Rankin and Jonathan P. O'Hara, for the appellant

Gordon Douglas, for the respondent

Heard: June 23, 2014

On appeal from the judgment of Justice Stanley J. Kershman of the Superior Court of Justice, dated October 7, 2013.

APPEAL BOOK ENDORSEMENT

[1] We dismiss the appeal for the reasons given by the application judge in para. 120 of the decision, the application judge said this:

The Court finds that, based on the evidence that other mortgages were being advanced for retirement

residences in the range of three years at a rate of 4.15 percent, the calculation of the payout rate at 4.35 percent was reasonable. While the actual notional rate was 4.32 percent, the rate was increased to 4.35 percent meaning that the prepayment figure was again lower than it would have been had it been 4.32 percent.

[2] We would correct this paragraph to state that the calculation of the payout rate at 4.35 percent was substantiated by the lender's evidence given the reality of the risk-free nature of the loan. We agree with the application's judge that the prepayment clause is not void for uncertainty. His interpretation of the clause was correct and in accordance with its purpose.