

COURT OF APPEAL FOR ONTARIO

CITATION: Business Development Bank of Canada v. 170 Willowdale
Investments Corp., 2023 ONCA 573
DATE: 20230831
DOCKET: M54388
(COA-23-CV-0614)

van Rensburg, Nordheimer and George JJ.A.

BETWEEN

Business Development Bank of Canada

Applicant

(Moving Party/Respondent on appeal)

and

170 Willowdale Investments Corp.

Respondent

(Respondent/Appellant on appeal)

Miranda Spence and Matilda Lici, for the respondent

David Trafford, for the appellant

Brian N. Radnoff, for the intervener 729171 Alberta Inc.

Tony Van Klink, for the Court-appointed Receiver The Fuller Landau Group Inc.

Heard and released orally: August 30, 2023

On appeal from the order of Justice Peter J. Osborne of the Superior Court of
Justice, dated May 23, 2023.

REASONS FOR DECISION

[1] The bank moved to quash this appeal. In response the appellant did not deliver any responding material but did deliver a notice of abandonment of its appeal on Monday.

[2] There is a contractual term between the parties that entitles the bank to its full indemnity costs. We do not see any reason not to hold the appellant to that contractual term. The bank is entitled to its costs of the abandoned appeal in the amount of \$19,791.95 inclusive of disbursements and HST.

“K. van Rensburg J.A.”

“I.V.B. Nordheimer J.A.”

“J. George J.A.”