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PUBLICATION

It's Over, But I Still Want the Rent: A Commercial Lease Breakup Story

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In *Highbury Narrows Ltd. v. LAF Canada Company*, the Ontario Court of Appeal reaffirmed a critical point for commercial landlords: what you can recover after tenant default depends on the lease, not general legal principles.

While the landmark *Highway Properties Ltd. v. Kelly, Douglas and Co. Ltd.* decision expanded landlord remedies, *Highbury Narrows* makes clear those remedies are not automatic. Instead, courts will look closely at how the lease is drafted.

The issue before the Court was whether a landlord could claim future rent after terminating a lease. The answer turned on the lease's structure, which created two distinct options: terminate the lease or keep it in force. Because the landlord chose termination, it was limited to recovering amounts owing at that time and could not also claim prospective rent.

The decision reinforces three key points: lease language governs, remedy election is binding, and general "catch-all" clauses cannot override specific provisions. It also comes as the Supreme Court of Canada considers related issues in *Aphria Inc. v. Canada Life Assurance Company*, with a decision expected later this year.

Read Sean Larjani's full article to understand the implications for commercial landlords and lease drafting here.