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## CASE SUMMARY: LANDLORD PRECLUDED FROM CLAIMING AGAINST TENANT FOR LOSSES ARISING FROM A FIRE DUE TO COVENANT TO INSURE IN THE LEASE

Plaintiff landlord precluded from claiming against defendant tenant for losses arising from a fire due to a covenant to insure in the lease.

### **Property insurance; Fire insurance; Landlord and tenant; Subrogation**

*Royal Host Limited Partnership (General partner of) v. 1842259 Ontario Ltd.*, [2017] O.J. No. 3493, 2017 ONSC 3982, Ontario Superior Court of Justice, July 5, 2017, M.A. Garson J.

The plaintiff landlord commenced an action against one of its tenants for negligence arising out of a fire loss that occurred at the landlord's premises. The plaintiff landlord was indemnified by its insurer which advanced a subrogated claim against the tenant. As a term of the lease, the tenant contributed to the insurance premiums for coverage provided by the landlord.

The issue before the court was whether the insurer was precluded from a subrogated action against the tenant by virtue of the terms of the lease.

The court held as a general proposition that where a landlord covenants to obtain insurance for fire damage, the landlord is barred from recovering from the tenant for losses caused by fire unless the lease contains clear, express, and unambiguous language that permits such recovery by the landlord. The court concluded the covenant by the landlord to obtain insurance against damages to the premises by fire was sufficient to bar the insurer from exercising any subrogation rights against the defendant.

This case was digested by Cameron B. Elder and edited by [Steven W. Abramson](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact them directly at [celder@harpergrey.com](mailto:celder@harpergrey.com) or [sabramson@harpergrey.com](mailto:sabramson@harpergrey.com) or review their biographies at <http://www.harpergrey.com>.