

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO: 33 OF 2020

BETWEEN:

GOD BLESS INTERNATIONAL CAR RENTAL LTD

AND

RASHAD JERVIS

PLAINTIFF

DEFENDANT

PLAINT

TO:

Rashad Jervis
30 Randyke Gardens
P.O. Box 1097
Grand Cayman KY1-1102



THIS PLAINT has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

WITHIN 14 DAYS after service of this Complaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, George Town, Grand Cayman, the accompanying *Acknowledgment of Service* form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the *Acknowledgment of Service* form.

IF YOU FAIL to satisfy the claim or fail to return the *Acknowledgment of Service* form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without any further notice to you.

Issued this 19 of February 2020

See overleaf for particulars of the Plaintiff's claim.

PARTICULARS OF CLAIM

1. The Plaintiff is a car rental company incorporated in Grand Cayman whose address for service is Block 4E Parcel 5H39, 73 Fountain Road, West Bay, Grand Cayman.
2. The Plaintiff entered into a car lease agreement ("The Agreement") with the Defendant on 22 December 2019 for the lease of the Plaintiff's Honda Fit, 2019, registration number 189011.
3. Pursuant to the Agreement, the Defendant was the authorized driver of the vehicle from 5:17pm on 22 December 2019 for a period of 6 months.
4. Clause C of the Agreement states *"The authorized driver" is hereby responsible for all collision and other damages to the issued vehicle, only if "The authorized driver" is at proven fault. To such extent, "The authorized driver is fully responsible for the cost of any repairs, up to the value of the issued vehicle..."* "authorized driver" agrees to notify "The owner" immediately, or in a reasonably practical time, in the event of a collision, theft of any other such incident or occurrence".
5. It was agreed between the parties that the cost of hiring the vehicle was KYD30 per day.
6. The Defendant paid KYD100 to the Plaintiff on 22 December 2019 and agreed to pay a further KYD150 on 6 January 2020. The Defendant gave his passport to the Plaintiff instructing her to return it to him after he paid the KYD150 owing on the 6 January 2020.
7. On 1 January 2020 the Plaintiff received a call from a third party stating that the Honda Fit, 2019 registration number 189011 had crashed into the fence outside their home in and around 6:20am that morning.
8. The Plaintiff called the Cayman Islands Police Service who filed an incident report number 2020-000040.
9. The Plaintiff arranged for the vehicle to be towed to a garage and checked.
10. As a result of the collision the Plaintiff's vehicle was found to be too expensive to be worth repairing and written off.

11. The losses to the Plaintiff are outstanding vehicle hire fees of KYD150, towing fees in the sum of KYD235, mechanic's fee for checking the vehicle in the sum of KYD50 and damage to vehicle in the sum of KYD4,421.68.
12. The Plaintiff contacted the Defendant to request payment of the losses sustained by her. Subsequently the Defendant agreed to pay the Plaintiff the sum claimed. In an agreement dated 2 January 2020 the Defendant agreed to pay the Plaintiff the sum of KYD4,421.68 plus KYD235 plus KYD50 by 15 January 2020.
13. The Defendant has failed to pay the amount owing by the due date or at all.
14. The Plaintiff sent a letter of claim to the Defendant on 29 January 2020 but the Defendant has failed to pay the said outstanding sum.
15. In response to the letter of claim the Defendant by email stated that he would pay the sum of KYD514.97 per month beginning 30 April 2020.
16. The Plaintiff has been unable to rent the vehicle since the collision on 1 January 2020 resulting in significant loss of profit. The Plaintiff needs the sum claimed from the Defendant in order to purchase a replacement vehicle to use for hire.
17. As a result the Plaintiff claims hire charges pursuant to the agreement for hire between the Plaintiff and Defendant dated 22 December 2019 at the rate of KYD30 per day until the date of judgment of this plaint.

PARTICULARS OF NEGLIGENCE

18. Failed to exercise due care and attention when driving the vehicle owned by the Plaintiff;
19. Failed to drive in such a manner as to have full control of the vehicle at all times;
20. Failed to take any or adequate steps to avoid the vehicle colliding with a fence;
21. Failed in all the circumstances to take reasonable care of the Plaintiff's vehicle and/or to exercise the care and skill expected of a competent driver;
22. Operated the vehicle recklessly or dangerously;
23. Operated the vehicle without reasonable care and skill;
24. Caused the vehicle to collide with a fence.

PARTICULARS OF BREACH OF CONTRACT

25. Failed to pay to the Plaintiff the sum of KYD30 per day for the hire of the vehicle;
26. Failed to pay to the Plaintiff the cost of repairs to or replacement of vehicle in contravention of the rental agreement entered into between the parties on 22 December 2019.

LOSS AND DAMAGE

27. The Plaintiff has suffered loss of the vehicle at the cost of KYD4,421.68.
28. The Plaintiff has further incurred the cost of towing the vehicle and mechanic fees to assess the vehicle.
29. The Defendant has failed to pay outstanding hire fees in the sum of KYD150 which were due to be paid by 6 January 2020.
30. The Plaintiff has incurred loss of profits in the sum of KYD30 per day for a period of 6 months from the 22 December 2019 or until the date of payment of the sum owing by the Defendant for replacement/ repair of the vehicle.

STATEMENT REGARDING INTEREST:


31. The prescribed rate of interest is 2 and 3/8% per annum.
32. The date from which interest accrues is from the date of issue of this Plaint.

AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:

1. Payment of the said sum of KYD 4,856.68;
2. Damages for loss of earnings at the rate of KYD 30 per day from 1 January 2020 until the date of judgment;

3. Pre and post judgment Interest on the said sum in accordance with the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
4. Costs.

Dated this 19 February 2020


The image shows two handwritten signatures in blue ink. The first signature is 'McGRATH' and the second is 'TONNER'. Both are written in a cursive style.

MCGRATH TONNER
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: The Defendant

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AND

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ACKNOWLEDGMENT OF SERVICE

1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action.

Yes

No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defense overleaf.

Service of the Plaintiff is acknowledged accordingly.

Defendant's Signature

Dated this day of , 2020

See Overleaf

PARTICULARS OF DEFENCE

(Here set out in numbered paragraph the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

Defendant's Signature

REMINDER - This form must be taken or sent to the Courts Office, PO Box 495, George Town, Grand Cayman **within 14 days** of receipt otherwise a default judgment may be entered against you.