



21/07/21

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC 109 OF 2021

BETWEEN: THE PROPRIETORS OF STRATA PLAN 136

PLAINTIFF

AND: DANIEL SPENCE

DEFENDANT

PLAINT

To the Defendant
General Delivery
Grand Cayman
Cayman Islands

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 Plaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands, 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 Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement 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 21st day of July 2021

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

1. The Plaintiff is a strata corporation established under the Cayman Islands Strata Titles Registration Act (2013 Revision) (the "Law"), being a condominium development known as Woodland Mews Condominiums (the "Strata"). The Strata is capable of bringing proceedings by virtue of section 5(1) of the Law.
2. The Defendant, at all material times, is and was the registered owner of one of the Strata lots, being Block 32B, Parcel 92 H3 known as, Strata lot 3 ("**Strata Lot 3**") of the Strata.
3. The control, management, administration, use and enjoyment of the Strata lots and the common property contained in the registered strata plan of the Plaintiff is regulated by the Plaintiff's registered By-Laws (the "**By-Laws**").
4. By virtue of section 21(7) of the Law, the By-Laws of the Strata in force at any time shall bind the owners of units at the Strata including the Defendant.
5. Pursuant to By-Law 34(b) of the By-Laws of the Strata, it is the Defendant's obligation to pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of Strata Lot 3.
6. Pursuant to By-Law 34(c)(1) and (2) of the By-Laws it is the Defendant's obligation to pay within 14 days of demand:

"All contributions necessary to establish and maintain a fund for administrative expenses sufficient in the opinion of the Corporation for the control, management and administration of the common property, for the payment of insurance premiums and for the discharge of any of the other obligations of the Corporation; and

All other costs and expenses incurred by the Corporation in connection with the performance of its duties under the law and under the By-Laws."
7. At a meeting of the Plaintiff held on 23 May 2018, it was unanimously resolved that:

"...the strata payment level pertaining to strata lot #3 remain at CI\$30 per month until the repairs are completed but no later than the end of 2018; and

upon the completion of the repairs to strata lot #3 or as of January 2019 (whichever occurs sooner), the strata payment level for strata lot #3 be increased from CI\$30 to CI\$200."
8. On numerous occasions, the Plaintiff has notified the Defendant of his ongoing strata obligations and the amounts outstanding in respect of Strata Lot 3 and such notices have been provided on an ongoing basis since 15 August 2019. Examples of such demand notices include, but are not limited to, notices issued on the following dates for the following amounts:
 - a. 15th August 2019 – CI\$675
 - b. 30th September 2019 – CI\$2,481.47
 - c. 17th October 2019 - \$4,056.38
 - d. 26th November 2019 – CI\$7,256.38
 - e. 6th January 2020 – CI\$11,888.24

- f. 4th March 2020 – CI\$18,508.98
- g. 30th July 2020 – CI\$19,408.98
- h. 17th October 2020 – CI\$19,583.98

9. However, the Defendant has paid approximately \$25.00 (and not the \$200 agreed) on average each month which has resulted in a strata amount owed of \$4,437.49 as of 1 July 2021.

10. Pursuant to By-Law 34A of the By-Laws:

“The Executive Committee shall have the right to impose a fine of CI\$50 for any violation of the obligations set out in Clauses 34a through 34gg for each day that each violation continues.”

11. By-Law 34(ff) of the By-Laws provides as follows:

“Not alter or construct in or remove from the common property anything except with the written consent of the Corporation.”

12. On 24 April 2019, the Defendant commissioned the installation of a temporary electrical meter box which was anchored in cement and bolted to the garbage enclosure without seeking approval from the Plaintiff. The Defendant was advised on 3 September 2019 that this was a breach of By-Law 34 and must be repaired by 30 June 2020 failing which the Defendant would be charged a fine of \$50.00 per day.

13. Following an expression of interest to purchase the common property areas beneath Strata Lot 3 and strata lot 4 by the respective proprietors of such strata lots, the Plaintiff commissioned an evaluation of the aforementioned common property areas by DDL Studio (the “Evaluators”). The common property area beneath Strata Lot 3 was valued at \$4,000 and the common property area beneath strata lot 4 was valued at \$14,000 and the Plaintiff agreed that such common property could be purchased by the respective proprietors for the respective amounts determined by the Evaluators. On 22 March 2019, the proprietor of strata lot 4 paid the agreed amount of \$14,000 for the common property area beneath strata lot 4 and commenced construction to enclose and incorporate the area into strata lot 4. Following the commencement of such works by the proprietor of strata lot 4, on 1 July 2019, the Defendant completed construction work at the rear of Strata Lot 3 blocking off the access to the common property located in the area below Strata Lot 3 despite not paying the agreed \$4,000 for said common property to the Plaintiff. The Defendant was advised on 3 September 2019 that this was a breach of the By-Laws and the common property under Strata Lot 3 needed to be open and accessible by 17 September 2019 failing which the Defendant would be charged a fine of \$50.00 per day.

14. By-Law 34(f) of the By-Laws of the Strata provides as follows:

“Not use his strata lot to permit it to be used in such manner or for such purposes as shall cause a nuisance or hazard to the occupier of any other strata lot (whether a proprietor or not) or any member of the household or any guest of such occupier.”

15. The Defendant installed an electrical extension cord from the aforementioned temporary electrical meter box to Strata Lot 3 which crossed the front area of both strata lot 1 and strata lot 2 which posed a hazard. The extension cord was installed allegedly to supply Strata Lot 3 with electrical power for construction/renovation purposes. However, very little, if any, construction/renovation was performed at Strata Lot 3 during the relevant time and instead the electrical cord installation

appeared to be being used to facilitate the Defendant residing in Strata Lot 3 despite its state of disrepair. The Defendant was advised on 3 September 2019 that this installation was a breach of By-Law 34(f) and the Defendant was required to disconnect and stow the extension cord daily between the hours of 6:00PM - 9:00AM (on the assumption that the connection was to facilitate construction/renovation) beginning on the 17 September 2019 or be charged a fine of \$50.00 per day. Despite the warning and clear justification that the consistent presence of the extension cord presented a hazard, the Defendant did not unplug and stow the cord.

16. Despite the above warnings noted in Paragraphs 12, 13 and 15 above and reasonable time provided by the Plaintiff for resolution, the Defendant did not comply resulting in penalties of \$16,600 being incurred as of 1 July 2021.
17. The Plaintiff has sought to be reasonable in dealings with the Defendant, however given the persistent breaches of the By-laws and total disregard for the safety of other residents and visitors to the Strata the Defendant is now obligated to pay the Plaintiff all owed Strata amounts and penalties for breaches of the By-laws.

AND the Plaintiff claims:

- (1) The sum of \$20,000.00
- (2) Interest in the sum of \$606.73 calculated at the prescribed rate in accordance with the By-Laws from 29 August 2019 to 1 July 2021.
- (3) Interest to continue until this matter is settled.
- (4) Fixed costs of \$175.00, alternatively costs to be assessed.



Plaintiff's Signature

Plaintiff's address for service

P.O. Box 1203
Grand Cayman KY1-1503
Cayman Islands

No. 2

Acknowledgment of Service

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC _____ of 20__

Between:

THE PROPRIETORS OF STRATA PLAN 136

Plaintiff

AND:

DANIEL SPENCE

Defendant

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 defence overleaf.

Service of the Plaintiff is acknowledged accordingly.

Defendant's Signature

Dated this ____ day of _____, 20__

See Overleaf

PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs 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 Court Office, PO Box 495GT, George Town, Grand Cayman within 14 days of receipt otherwise a default judgment may be entered against you.