

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC OF 2022

BETWEEN:

CABBY & CO. LTD.

PLAINTIFF

AND:

(1) ANDREW BENJAMIN

(2) LLOYD KIR-PATRICK TOWNSEND

DEFENDANTS



PLAINT

To the Defendants:

Andrew Benjamin
c/o Royal Cayman Islands Police Service
George Town Police Station
Grand Cayman

Kir-Patrik Townsen
c/o Her Majesty's Cayman Islands Prison Service
HMP Northward,
Grand Cayman

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 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 10th day of October 2022

See overleaf for particulars of the Plaintiff's claim.

PARTICULARS OF CLAIM

1. The Plaintiff is a non-resident Cayman Islands company having its registered office at 23 Lime Tree Bay Avenue, Governors Square, Grand Cayman, KY1-1003, Cayman Islands.
2. The First Defendant is employed as a Constable at the Royal Cayman Islands Police Service. The Second Defendant is employed as a Prison Officer at Her Majesty's Cayman Islands Prison Service (together, "the Defendants").
3. On the 22nd September 2021, the Plaintiff entered into a Lease Agreement ("Lease") with the Defendants in respect to the property located at 700C Shamrock Road, Unit #107 South Shore, George Town, Grand Cayman ("the Premises"). The term of the Lease was for a period of 12 months commencing on the 1st day of October 2021 and ending on the 30th September 2022. A security deposit of CI\$2,000.00 was due on execution of the Lease. The rental amount of CI\$2,000.00 was payable in advance on or before the first day of each month for the duration of the term of the lease, with the first rental payment of CI\$2,000.00 due on execution of the Lease.
4. On the 28th September 2022, the security deposit of CI\$2,000.00 was paid by the Defendants and they moved into the Premises in October 2021.
5. On or around 27th July 2022, the Plaintiff became aware that rent payments for the months of June and July 2022 had not been paid into the account. The Plaintiff advised the property manager of this discovery and the property manager made enquiries with the Defendants on the status of the payments. The First Defendant advised that there had been a banking error and he would proceed to deposit the missing rent. The First Defendant provided a screenshot of the electronic fund transfer to the property manager as proof however the funds never arrived into the Plaintiff's bank account.
6. The discovery of the missing payments for June and July 2022 prompted the Plaintiff to undertake a complete review of its bank account to identify all payments that had been made by the Defendants pursuant to the terms of the Lease. On completion of this review, it was revealed that since the Defendants had moved into the Premises, no payments of rent were made to the bank account. To date, the Plaintiff only received the security deposit of \$2,000.00.
7. The First Defendant made unsubstantiated claims that funds to pay the rent have been removed from his bank account without his permission. He claims to have only recently become aware of this and, has made remarks to the affect that he was lodging a complaint with the Financial Crime Unit.
8. Subsequently, on the 18th August 2022 a notice pursuant to s.56 of the Registered Land Act (2018 Revision) was sent to the Defendants by the Plaintiff's attorneys demanding repayment of the rent owed. There was no response by the Defendants to this notice.
9. The Defendants vacated the Premises at the end of August 2022. Despite the Defendants acknowledging the debt and providing several promises to repay the monies owed, to date all rent monies due under the Lease remains owing.
10. By clause 6 of the Lease, the Defendants agreed to the following: "*Late charges: in the event that the rent and/or any expenses incurred by the Tenant are not received prior to 5:00p.m. on the 3rd day of the month, regardless of the cause, a late fee of CI\$30.00 per day will be charged*".

11. The total outstanding rent and late charges owed is **CI\$31,450.00** which is calculated as follows:

Monthly rent of CI\$2,000.00 for
October 2021 to August 2022 (11 months): CI\$22,000.00

Late charges pursuant to clause 8 of the Lease
charged at CI\$30.00 per day:

• 4-31 October 2021:	CI\$840.00	
• 4-30 November 2021:	CI\$810.00	
• 4-31 December 2021:	CI\$840.00	
• 4-31 January 2022:	CI\$840.00	
• 4-28 February 2022:	CI\$750.00	
• 4-31 March 2022:	CI\$840.00	
• 4-30 April 2022:	CI\$810.00	
• 4-31 May 2022:	CI\$840.00	
• 4-30 June 2022:	CI\$810.00	
• 4-31 July 2022:	CI\$840.00	
• 4-31 August 2022:	CI\$840.00	
• 4-30 September 2022:	CI\$810.00	
• 4-11 October 2022:	CI\$240.00	CI\$10,110.00

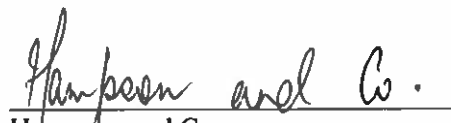
Total CI\$32,110.00

12. By clause 19 of the Lease, the Defendants agreed to the following: *"In any legal action brought by either party to enforce the terms hereof or relating to the Premises, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee"*.
13. The Plaintiff has to date, incurred the sum of **US\$2,520.00 (CI\$2,116.80)** in attorneys' fees for its efforts to enforce the debt.
14. The Defendants total indebtedness to the Plaintiff in the sum of **CI\$2,116.80**, calculated as follows:
- | | | |
|-----|------------------|--|
| i. | The Debt: | \$32,110.00 |
| ii. | Attorneys' fees: | <u>\$ 2,116.80</u> (as at date of issuance of Plaintiff) |
| | Total | \$34,226.80 |
15. Despite the total indebtedness owed by the Defendants, the Plaintiff is prepared to cap the Defendants' indebtedness at CI\$20,000.00 reflecting the monetary jurisdiction of this Honourable Court, and waive any claim for the balance.
16. The Plaintiff pleads and relies on s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2008 and pleads that it is entitled to pre-judgment and post-judgment interest pursuant to s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 and 2012 at the prescribed rate of 2³/₄% p.a. (CI\$1.49 per diem) from 1st September 2022.

AND the Plaintiff therefore claims against the Defendants, jointly and severally:

- a) Judgment in the sum of CI\$20,000.00;
- b) Pre-judgment interest from 1st September 2022 to 11th October 2022 (41 days) in the sum of CI\$61.09 and accruing thereafter at the rate of 2 $\frac{3}{8}$ % per annum (CI\$1.49 per diem);
- c) Fixed costs of \$250.00 or alternatively costs to be assessed;
- d) Such further and other relief as to this Honourable Court may seem just.

DATED this 12th day of October 2022


Hampson and Company
Attorneys for the Plaintiff

This Plaint is issued by Hampson and Company, Attorneys-at-Law for the Plaintiff, whose address for service is Apollo House East, 4th Floor, 87 Mary Street, George Town, P.O. Box 698 Grand Cayman KY1-1107, Cayman Islands.

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CABBY & CO. LTD.

PLAINTIFF

AND:

(1) ANDREW BENJAMIN

(2) LLOYD KIR-PATRICK TOWNSEND

DEFENDANTS

ACKNOWLEDGMENT OF SERVICE

1. State Defendant's name and address -

[Empty rectangular box for defendant 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 _____, 2022.

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 495, George Town, Grand Cayman KY1-1106, within 14 days of receipt otherwise a default judgment may be entered against you.