

IN THE GRAND COURT OF THE CAYMAN ISLANDS

712
CAUSE NO 712 OF 2000

BETWEEN: CAYMAN REALTY SPECIALISTS LIMITED PLAINTIFF

AND: DAVID SARGEANT DEFENDANT

TO THE DEFENDANT: DAVID SERGEANT
PO Box 31708 SMB
Georgetown
Grand Cayman



THIS WRIT OF SUMMONS 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 the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495 G.T., George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued 4th September 2000

NOTE - This Writ may not be served later than 4 calendar months (*or, if leave is required to effect service out of the jurisdiction, 6 months*) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is and was at all material times the absolute owner of apartment number 23, Plantation Village, situated at Registration Section West Bay Beach South, Block 13B, Parcel 142, H 22 (“the Premises”).
2. The Plaintiff leased the Premises to the Defendant pursuant to a written Tenancy Agreement dated 22 January 1999 (“the Agreement”) for a term from 1 February 1998 until 31 January 1999, at a monthly rental of US\$2,700.00 payable in advance on the first day of each month.
3. There were express terms of the Agreement as follows:-
 - 3.1 “the Tenant will pay to the Landlord on the signing hereof, a sum equivalent to one month’s rent, which sum shall be held by the Landlord as security for the due performance by the Tenant of his obligations hereunder [“the Deposit”]...It is agreed and understood that said deposit shall not be applied towards the payment of the last month’s rent” (Clause 2).
 - 3.2 “The Tenant hereby covenants and agrees with the Landlord...not to assign, underlet or part with possession of the whole or any part of the Premises without the prior written consent of the Landlord...” (Clause 3(g)).
 - 3.3 “The Tenant hereby covenants and agrees...to pay promptly all water charges” (Clause 3(h)).
 - 3.4 “The Tenant hereby covenants and agrees...to pay all assessments and outgoing payable in respect to the Premises during the tenancy” (Clause 4).

The Plaintiff will refer to the full terms of the Agreement at trial.

4. In breach of the Agreement, the Defendant sub-let the Premises, without the Plaintiff’s prior written consent. The Plaintiff does not know, pending discovery, the identity of the sub-lessees, save that they were computer technicians on temporary contract with the Cayman Islands Port Authority.

5. In further breach of the Agreement the Defendant failed to pay rent as it fell due, and failed to pay all water charges and utilities invoices with regard to the Premises.
6. The Plaintiff took steps to mitigate it's loss by re-letting the Premises in November 1998. The Plaintiff was however, only able to re-let the Premises at a reduced rental of \$2,650.00 per month ("the Reduced Rental"). The Plaintiff therefore claims the difference between the rent which would have been receivable from the Defendant pursuant to the Agreement and the Reduced Rental, namely \$50.00 per month ("the Difference") for the period from November 1998 to 31 January 1999, amounting to US\$150.00.
7. By reason of the Defendant's said breaches of the Agreement the Plaintiff has suffered loss and damage as follows :-

Rent unpaid 1 July to 31 October 1998 inclusive	
(4 months @ US\$2,700.00 per month)	10,800.00
Outstanding utilities to 1 November 1998	1,226.00
Difference	150.00
TOTAL	US\$12,176.00

8. The Plaintiff gives credit for the Deposit of US\$2,700.00 which has been offset against the amounts owed to the Plaintiff by the Defendant.
9. The Plaintiff claims interest on US\$9,476.00 pursuant to Section 34 of the Judicature Law (1995 Revision) at the following rates and periods :-

1 February 1999 to 31 March 2000 @ 7%	
(424 days @ US\$1.82)	771.68
1 April 2000 to 10 August 2000 @ 8%	
(157 days @ US\$2.25)	353.25
Total interest to date hereof	US\$1,124.93

Interest will continue to accrue at the daily rate of US\$2.31 until date of judgment or sooner payment.

THE PLAINTIFF CLAIMS

1. Damages amounting to a total of US\$9,476.00 pursuant to paragraphs 7 and 8 above.
2. Such further or other relief as the Court may think fit.
3. Interest as aforesaid pursuant to Section 34 of the Judicature Law (1995 Revision).
4. Costs.

If within the time for returning the acknowledgment of service the Defendant pays the total amount claimed of US\$9,476.00, interest pursuant to the rate as aforesaid from today's date until payment in full, plus the sum of CI\$400.00 in respect of legal costs and fees, further proceedings will be stayed. The funds must be paid to the Plaintiff or its attorney.

Bruce Campbell & Co
BRUCE CAMPBELL & CO
Attorneys at Law for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁷¹² OF 2000

BETWEEN: CAYMAN REALTY SPECIALISTS LIMITED PLAINTIFF

AND: DAVID SARGEANT DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

2. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged -

3. State whether the Defendant intends to contest the proceedings (tick appropriate box) [] yes [] no

4. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box) [] yes [] no

Service of the Writ is acknowledged accordingly

Address for service:

NOTES ON ADDRESS FOR SERVICE

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Bruce Campbell & Co. (Ref:HSR/DAS)
P O Box 884 G.T.
George Town
Grand Cayman

Tel: 949 2648
Fax: 949 8613

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE

OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.