

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 7 OF 2009



ABEEKU INVESTMENT LTD. PLAINTIFF
And
GLORIA DAVIS-BERRY DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: GLORIA DAVIS BERRY of P.O. Box 531, KY1-1107, Grand Cayman, Cayman Islands, BWI

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 495G, 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 this 7 day of January 2009

NOTE - This Writ may not be served later than 4 calendar 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/Lessor/Landlord is the freehold owner and has a right to possession of the premises known as P. O. Box 718 GT.
2. To the best of the Plaintiff's knowledge the Defendant/Lessee is in possession of the property.
3. The claim does not relate to residential property.
4. The premises were let to the Defendant by an Agreement in writing dated 1 February 2008 (Lease Agreement) and made between the Landlord and the Lessee for a term of two years commencing 1 March 2008 and terminating on 1 March 2010.
5. The yearly rent, as set out at paragraph 1.3 of the Lease Agreement, was CI\$72,000.00 paid by monthly instalments of CI\$6,000.00, a copy of the said Lease Agreement is attached to the Statement of Claim and served herewith.
6. The premises are occupied by the Defendant for the purposes of a bar, restaurant and jerk-stand business carried on by the Lessee.
7. By notice by way of a letter dated 3 December 2008 (the "Letter") served in compliance with and pursuant to section 56 of the Registered Land Law (2004 Revision) and personally served on the Defendant on 3 December 2008 the Lessor stated, in short, that there were rent and garbage fees outstanding of CI\$12,000.00 and CI\$2,000.00 respectively and requested the Lessee to remedy the breach within a reasonable time of 14 days.
8. The Defendant has failed within the time stipulated in the Letter to make payment and make the necessary compensation and is therefore in breach of the Lease Agreement at paragraphs 7, 8.1 and 8.2.
9. In the result, the Plaintiff applies for an Order permitting him to forfeit the Lease Agreement pursuant to section 55(2)(b) of the Registered Land Law (2004 Revision) as a result of the Defendant's breach of the Lease Agreement at paragraph 7, 8.1 and 8.2 and to obtain vacant possession.
10. That the Defendant be and is ordered to pay to the Plaintiff the outstanding rent of CI\$14,016.00, any and all outstanding expenses to include any outstanding utility bills and garbage fees and the daily fee for late payment of rent of CI\$5.00 for every day that the rent remains unpaid.

AND the Plaintiff claims:

- (1) possession of the premises;
- (2) CI\$14,016.00 arrears of rent;
- (3) mesne profits until possession be delivered up;
- (4) Interest on (10) above pursuant to The Judicature Law (1995 Revision), the plaintiff is entitled to and claims interest on such sums as are found to be due at the statutory rate and for such period as the Court shall think fit.
- (5) Costs



Clyde H. Allen, Chambers

THIS WRIT was issued by Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 10, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

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And
GLORIA DAVIS-BERRY DEFENDANT

ACKNOWLEDGMENT 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.

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

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes no

3. If the claim against the Defendant is for a debt or a 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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

Please complete overleaf

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.

Clyde Allen
Clyde H. Allen, Chambers
Attorneys-At-Law
PO Box 31076
KY1-1205
Grand Cayman
Cayman Islands

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

