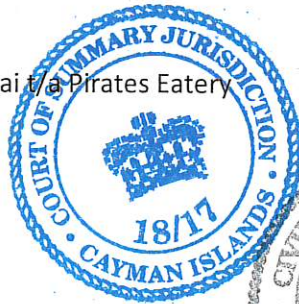


IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC 285 OF 2018

BETWEEN: Kellian and Samuel Aashikpelokhai t/a Pirates Eatery



Plaintiff

AND:

Ian and Cindy Bodden t/a Underground Pirates Caves – Pirates Caves

Defendant

PLAINT

To the Defendant

Ian and Cindy Bodden
c/o Garcia Morris
Attorney-At-Law
Box 253, 1st Floor,
Artemis Hse, 67 Fort St.
Grand Cayman KY1-1501

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 defense 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 defense, the Plaintiff may apply for a default Judgment without any further notice to you. Issued this 14th day of December 2018; see overleaf for particulars of the Plaintiff's claim.

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

(Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him)

- Ian Bodden herein by this reference as (the "**Landlord**") is the current owner/Landlord of Block 44B Parcel 78 herein by this reference as (the "**Property**").
- The property and premises was leased for a (5) year period by Kellian and Samuel Aashikpelokhai herein by this reference as (the "**Tenant's**").in which they operate an ice cream emporium; eatery; garden and animal sanctuary.
- Pirates Eatery is traded Company owned by Samuel and Kellian Aashikpelokhai and was incorporated after the lease was secured.
- The property was gifted to Ian Bodden by Debbie Bodden whilst there was negotiation to lease the property. The administration process was finalized in November 2017.
- The Landlord and Debbie Bodden entered into a lease agreement with the Tenants in August 2017 (**Exhibit A**). It should be noted that although the offer to rent was advertised as Pirates Caves shops, there were subsequent negotiations via verbal and text message correspondences with the landlord (**Exhibit B**) and it was agreed as follows:
- The premises would be used for the purposes of an Eatery; Ice Cream Emporium; Garden; and Animal Sanctuary. Ie restore the previous purpose and enhance by adding the Eatery component. It was also agreed that the dining area would be staged on the outdoors as several Regulatory permissions would be required to operate/conduct business;
- Because of the deplorable state of the premises and property evidenced in (**Exhibit C**), Extensive renovations was deemed necessary which would include but is not limited to, reconstruction of the garden; the premises and the coin shop. For that reason, the garden and coin shop were affixed to the Lease Agreement.
- Because there was initial, misrepresentation of the property, rights by the Landlord, and the agreement to renovate Ian and Debbie Bodden re-executed the lease agreement and Mrs. Cindy Bodden witnessed at the residence of Debbie Bodden on 14th August 2018 for a period of (5) years.
- The said agreement refers to Kellian and Samuel Aashikpelokhai as the tenants of Pirates Cave, Bodden Town and defines the unit as the "**Premises**".
- For this reason, of does lie within the remit of the unit but within the purpose and basis on which the lease had to be re-executed.
- At issue should the Tenant's have access to the Property as defined in the lease agreement; and
- Can the Landlord subsequently infringe on the terms set out in the Agreement and conduct business as he chooses.
- Clause 3 of the said lease provides that, "**the Landlord, considering the expenses for the renovations, and operational costs, hereby gives the Tenant the right to use the property for the term specified in clause (1)**" that being 5 years, and agrees that the property will not be sold, subleased, or assigned for any other purposes during that time.

- The Lease Agreement also provides that the Landlord will cover **all expenses** incurred should the terms and conditions be forfeited/breached.
- The Tenants on the basis of the terms agreed have to date invested approximately 160K inclusive of renovations; rental payments and salaries as evidenced in **(Exhibit D)**
- Whilst conducting renovations, and on the basis that renovations had exceeded the budget, the tenants sought assistance by way of labor from Her Majesty Northward Prison for the purposes of restoring garden area of the property
- The request was granted "solely" as a community project and because the Tenant's agreed that, the said area would be accessible to the public free of charge.
- It should be noted that the lumber/materials were purchased by the Tennant's for the purpose of this project and assisted with the preparation of meals equipment rental etc
- The Tenants paid a deposit and their rent in full from the inception of the agreement. Full payment was also made whilst renovations was conducted a total of (7) months. During this time, the Landlord was aware of all the amendments to the premises and property and conducted periodic checks during that time. The Landlord also gave his verbal approval and approval via text messages to the changes as evidenced in **(Exhibit E)** where the Landlord explicitly said " do whatever you need to be done to get the place in order".
- In addition, there were several messages relayed by the Landlords brother George Bodden regarding the rental of Caves and in doing he prompted the Tennants of the Landlords deceptive ways and suggested that we ensure that the Landlord would rescind on our agreements.
- This was communicated to the Landlord via massages in which he rebutted and noted that he was fully aware of the terms, and said he hope his brothers comments does not create conflict because "the terms of the agreement are good"
- Throughout occupancy or renovations, the Landlord did not contribute by way of labor or materials or the restoration of any of the ongoing projects.
- The Landlord only collected the rental fee (in full) throughout that time totaling to date approximately 18k.
- The property was appraised before and after renovations was conducted. As a matter of interest, it should be noted that there was an increase of approximately 90K in value based in the renovations conducted. This includes but is not limited to:
- Partitions of the premises; painting of the internal and external walls; retiling of several areas throughout; installation of cupboards and granite work in the kitchen area; addition and construction of the external deck here evidenced in **(Exhibit F)**

BREACHES/INFRINGEMENTS

1. Since the commencement of conducting business in March 2018, the Landlord has breached the terms of the lease on several occasions:
 - The Landlord failed to disclose that the utility was connected to an adjacent property. It should be noted that the Landlord continued to collect rent from both locations and allowed the Tenants (the claimant) to pay the utility charges in full even during renovations.

- The illegal connections became known after the Tennants queried the increased light usage with CUC and was told by a representative of CUC to switch off the breakers at night when not in use.
 - The tenant in the adjacent property at that time disclosed the connections and confirmed that her rental payment was inclusive of light and water usage.
- 2 The Landlord irrespective of collecting a deposit, neglected to fix the water leaks on the property. In light of this, a water bill of over 3k+ was incurred on the 2 months of assuming the term of the lease. The Tennants because of the financial interest, was the one that conducted investigations which included an onsite inspection by representatives of Water Authority. It was noted that the Landlord was aware of the leaks because he himself incurred an exorbitant water bill 2 months prior, but neglected to have a plumber remedy the issue. Because the Landlord refused to assume responsibility, the Tennant's given the ongoing financial interest, assumed the liability and arranged a payment plan for the purposes of enabling water connection/ to have usage (**Exhibit G**).
- 3 In March 2018, after Pirates Eatery was opened, the Landlord entered in an agreement with George Bodden (the "**Landlord's brother**") for the purposes of accessing the entrance of the Caves and have constructed a ticket booth to facilitate the collecting of funds and processing patrons accordingly.
- At issue is that there is no right away to George Bodden property; and
 - The exit of the Caves is located on the property that Pirates Eatery has leased.
 - The Landlord at the time noted that there would be a conflict and as such, he expressed his desire to have access to the exit of the caves.
 - The Tennant's were willing to grant limited access on the basis that the conduct of business the Landlord's business was in accordance to the laws that governs same was expressed verbally in a meeting with the Landlord's brother and via WhatsApp messages (**Exhibit H**).
 - The Landlord, since then has erected the ticket booth without regulatory approvals. In addition, the light connections were not conducted in accordance to the provisions of the laws because there are loose wires throughout the property that allows all connections to be linked to a unit that George Bodden rents from Ian Bodden as evidenced herein.
 - On the basis that tours are being conducted which is hazardous to patrons and on the basis that the spouse of the Landlord has continued to harass and infringe on the rights of the tenants the good faith negotiations by seeking to pull business from the Tennants by the terms was rescinded.
 - The Landlord's spouse, Mrs. Cindy Bodden has publicly embarrassed the Tenants via way of media when we posted an advert to offer locals to sell and display their local artwork (**For Free**) on the property whilst we conduct tours with our main client, noting that it is within our right to do so pursuant to the terms of the lease and verbal agreement.
 - It should also be noted that Mrs. Cindy Bodden has also sought several contracts and have proceeded to falsify the story that surrounds the restoration of the property.
 - Mrs. Cindy Bodden has repeatedly taken pictures of the animals that we have been entrusted with by way of donations and have used them to promote her business.
 - Mrs. Cindy Bodden has taken pictures of the Eatery and the newly renovated grounds have posted them to her face book page with the intention of diverting the traffic from the Eatery.

- Mrs. Cindy Bodden continues to solicit guests when they are dining with the objective of touring the caves as evidenced herein.
- Mr. and Mrs. Bodden have rejected requests to the Tennant's posts and have told the persons of interest that there is an associated fee to use the garden area (which is the said space that is leased)
- On the basis that there the erected booth has no lavatories, Mrs. Cindy Bodden expects her guests to use that of the leased premises noting that she does not contribute to water or light usage but we are expected to pay the rent in full.
- On several occasions (even after being arrested for harassment and over (7) reports filed at the Bodden town police station) **(Exhibit I)** Mrs. Cindy Bodden has visited the Tennant's leased property **without notice as specified in the contract** and has entered the kitchen without permission as evidenced herein.
- Because she no seating arrangements for her patrons, she continues to use the seating arranged for our guests at the Eatery.
- Mrs. Cindy Bodden has maliciously tampered with the animals and even contacted Department of Environment several days after she was told to discontinue her usage of our bathrooms.
- Mrs. Cindy Bodden has made several false reports that has caused the police to visit the property on several occasions in November 2018. The has greatly impacted the business as that month, we recorded our lowest revenue since we opened our doors.
- As a result, we have lost significant revenue and clients because, Mrs. Cindy Bodden and the Landlord have publicly indicated to clients that we have no **rights to the property** contrary to the provisions of the binding contract.

Tennant's confirms that they have received letter dated 3 December 2018 from Garcia Attorney At Law on behalf of the Landlord. Tenants confirms that the statements are falsified and have made several attempts prior receipt of the letter to resolve the issues in an amicable manner **(Exhibit J)**.

The Landlord has denied the terms of agreement and has made several statements in his letter dated 3 December 2018 that are considered to be fragments of truth **(Exhibit K)**. He has also denied that the lease extends to the garden area and that he only rented the unit.

Since the dispute, he requested that:

- The animals be removed from the property
- The seating arrangements be removed from the property

The Landlord has also chosen to ignore the terms of the contract and have conducted business and continues to conduct business on the property.

The tenants confirm that we have a legally binding contract with the Landlord. The Tennant's confirms that all the elements that constitutes a binding contract have been met and are evidenced throughout the appendices thereof.

Additionally, the Landlord had (full) knowledge of the Tenant's intentions by way of Implied Consent as follows:

- I refer to article posted in the Caymanian Compass in February of 2018, **(Exhibit L)** which the Landlord was privy to as he and his wife acknowledged the work done via social media and his step mother Debbie Bodden also commented on "restoring Spencer's dream" **(Exhibit M)**
- The Landlord was privy to all the renovations to the property and premises and conducted periodic checks to see the progress of renovations.
- The Landlord was also privy to the tenants obtaining assistance from HMNP and the work they conducted on the premises and under what basis that said assistance was given, i.e. to give residents **free access** to the space.
- The Landlord was also notified of every visit that was encountered. **(Exhibit N)**
- The Landlord granted permission to restore the animal cages and recommended that his brother George Bodden assist with that aspect (for a said fee). George also at that point made me aware of the boundaries and said by way of WhatsApp that the cage on which the peacock currently sits is on his land. **(Exhibit O)**
- The Landlord was aware of all the animals that were purchased and donated to enhance the garden and the several occasions of theft thereof
- The Landlord was aware that entertaining would NOT be done indoors and that the eatery/dining would be placed outdoors. The Tenants have operated in this fashion since they opened the business.
- The Landlord was aware that the Tenants paid to remove 8 10 ft containers of debris that were removed from the premises for the purposes of having the dining on the outdoors and the yards of gravel, that was laid on the grounds **(Exhibit O)**.

The tenants have fulfilled our obligations under the contract. Thus, fulfilling the obligations entitles them to be compensated in light of the breaches that has occurred because the Tenant's invested significantly in your property and would (as we are entitled) to have the opportunity to occupy the space in a peaceful setting.

The Landlord and his spouse have lasciviously, impeded clients we have contracted with, infringe on or rights as tenants on several occasions and sought contracts making misrepresentations of the agreement within a matter of months.

The Landlord has an continues to interfere with the Tenants staff (even after being told not to do so) staff by giving them instructions and creating conflict in the Tenants absence. Employers have also rejected job offers because they are not willing to work in what is considered to be a chaotic environment. **(Exhibit P)**.

Even in their absence, Mrs Bodden continues to prompt the Tenant's staff for previous employees numbers and contacts them asking for details and offering employment with the Tenants main client as exhibited **(Exhibit Q)**.

Mrs Bodden continues to display her deceptive behavior by making untruthful representations stating that the Bank has contacted her regarding our employees status because they are confused as to who operates the business; and continues to make comments to our main client regarding her owing the property and there are (2) separate entities that occupies the property.

The actions of the Landlord and Mrs Bodden has caused consequential damages as significant loss has been incurred.

The Tenants hereby claim compensation for breach of contract, and consequential loss for damages incurred

AND the Plaintiff claims:

- (1) The sum of \$16,600.00
- (2) Interest in the sum of \$806.60 calculated at the prescribed rate from June 2018 to date.
- (3) Interest to continue until this matter is settled.
- (4) Fixed costs of **\$17,406.60**, alternatively costs to be assessed.

Kellian and Samuel Aashikpelokhai

A handwritten signature in blue ink, appearing to be 'Kellian and Samuel Aashikpelokhai', written over a horizontal line. The signature is stylized and cursive.

Plaintiff's Signature

Plaintiff's address for service
84 Saddlewood Drive
Savannah, Newlands
PO Box 2295
Grand Cayman KY1-1103

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 2019

BETWEEN:

Kellian and Samuel Aashikpelokhai t/a Pirates Eatery

Plaintiff

AND:

Ian and Cindy Bodden t/a Pirates Caves

Defendant

ACKNOWLEDGMENT OF SERVICE

1 State Defendant's name and address –

Ian and Cindy Bodden
c/o Garcia Morris
Attorney-At-Law,
Artemis Hse, 67 Fort St.
Grand Cayman KY1-1501

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 December, 2018

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)

AND the Defendant claims:

(1) The sum of

(2) Costs.

Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, PO Box 495, Grand Cayman KY1- 1106 Cayman Islands within 14 days of receipt otherwise a default Judgment may be entered against you.