

IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES

IN THE HIGH COURT OF JUSTICE
(CIVIL)

CLAIM NO. GDAHCV 2019/0124

BETWEEN:

DARNLEY PHILLIP
KJELL PHILLIP

Claimants/Applicants

and

FREDERICK NICHOLAS

Defendant/Respondent

Appearances:

Ms. Hazel Hopkin for the Claimants/Applicants
The Defendant in person

2019: November 11.

RULING

- [1] GILFORD, J.: This matter having come on for the hearing of an application to strike out the statement case of the defendant pursuant to rule 26.3 (1) (a) (b) (c) and (d) of the CPR 2000, the court having heard the submissions of learned counsel on behalf of the claimants/applicants and the submissions of the defendant/respondent pro se.
- [2] The court having reviewed the facts of the case hereby finds that:
- (a) There has been a failure by the defendant/respondent to comply with a rule as it relates to Part 69 of the CPR 2000;
 - (b) The statement of case of the defendant/respondent is struck out since it does not disclose any reasonable ground for bringing the counterclaim or defending the claim -

- (i) In that the defendant/respondent has denied that any tenancy ever arose or existed between himself and the claimants/applicants and therefore is not a tenant and the rights to tenancy cannot be afforded to him;
- (ii) That there is no principle of law as waiver ;and
- (iii) That the allegations of fact set out in the defence and counterclaim of the defendant/respondent does not establish the essential ingredients of any cause of action or constitute a defence;
- (c) The statement of case of the defendant/respondent is an abuse of the process of the court since no reasonable cause of action is disclosed; and
- (d) The statement of case of the defendant/respondent is prolix and does not comply with the requirements of Part 10 of the CPR 2000.

[3] **IT IS HEREBY ORDERED** that the defendant/respondent

- (e) Gives up possession of the demised premises situate at Grand Mal in the Parish of St. George in the State of Grenada within 6 months of the date of this order;
- (n) Pays the rent due and owing from September 2018 up to the date that the place is vacated;
- (g) Pays the outstanding utility bills \$217.96;
- (h) Pays the sum of \$1,725.00 for the pre-action letters, bailiff fees and disbursements prior to the civil action;
- (i) Pays interest at the rate of 6% per annum pursuant to section 27 of the West Indies Associated States Supreme Court Act Cap.336 of the 1990 Revised Edition of the Laws of Grenada as amended by Act No. 7 of 2009 starting from the date of this order until all payments are made in full. Interest to begin from the 11th day of December 2019; and
- U) Costs are foregone by the claimant/applicant.

(4] **AND IT IS FURTHER ORDERED** that:

(k) The defendant/applicant's application for injunctive relief is dismissed without a hearing;

(l) That the claimants/applicants are not to disturb the defendant/respondent within the 6-month period and is to reconnect the water on or before the 25th day of November 2019.

PAULA GILFORD
High Court Judge



By the Court