

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

COMMON LAW & EQUITY DIVISION

2013/CLE/gen/01325

BETWEEN

JUDY JOAN ROLLE

Plaintiff

AND

SIDNEY DURAN CUNNINGHAM

1<sup>st</sup> Defendant

AND

BERNARD FERGUSON

2<sup>nd</sup> Defendant

Before Hon. Mr. Justice Ian Winder

Appearances: Antoine Thompson for the Plaintiff

Rionda Godet for 1<sup>st</sup> Defendant

Roger Minnis for the 2<sup>nd</sup> Defendant

22 October 2019 and 15 January 2020

RULING

## WINDER, J

1. This is my brief decision following hearing of the counterclaim of the Plaintiff by Counterclaim (Cunningham) against the 1<sup>st</sup> Defendant to Counterclaim (Rolle) for damages arising from an alleged breach of the lease of Condominium Unit B West Ocean Winds Condominium dated 2 July 2009.
2. The counterclaim proceeded to trial following the striking out of Rolle's claim in the main action as well as her Defence to Cunningham's Counterclaim. Cunningham was the only witness at trial.
3. The counterclaim alleges the breach of the lease/negligence as regards:
  - (1) Damages for alterations to the property;
  - (2) Replacement of items left on the demised premises;
  - (3) Non-payment of rent
4. The issue of the alteration to the property and replacement of items may be dealt with shortly. These items in the claim are not particularized nor is there any evidence as to the values save for an anecdotal account by Cunningham of a contractor who did not enter the property to inspect the works, in relation to the alterations. No invoices or itemization of the property claim to have been lost, were provided. I am not satisfied to the requisite standard that these items have been proved.
5. On the issue of nonpayment of rent, Cunningham's claimed outstanding lease payments for three years. I accept Cunningham's evidence on this issue and I am satisfied, that it has been proven. The lease payments were \$2,000 per annum which amounts to \$6,000.

6. I therefore give judgement for Cunningham in the amount of \$6,000. I award costs to him to be taxed if not agreed.

Dated the 15<sup>th</sup> day of January 2020

A handwritten signature in black ink, appearing to read 'Ian R. Winder'. The signature is stylized with a large loop at the end.

Ian R. Winder

Justice