

In the District Court of New Zealand
at North Shore Registry

CIV- 2018-044-001629

Under

the Property Law Act (2007)

In the Matter

of Breach of [Lease] Contract

Between

Ian James Plowman, Nurseryman of 35 Advane Road
Cockle Bay, Auckland, Company Director

Nikau Grove Nursery Limited, a duly incorporated
company having its registered office at 35 Advane Road,
Cockle Bay, 2014, New Zealand

Helen Irene Mitchel of 53 Smith Road, Kumeu, Auckland
Retired

Applicants

and:

Dennis Arthur Smith, Beneficiary of Taumarunui
Defendant

Affidavit of Helen Irene Mitchell
Dated 23 August 2019

Next Event Date:

Judicial Officer:

Case Officer:

Norwest City Law Limited
Level 1, Unit A7, 11D Factory Road
Waimauku Village Centre
Auckland 0812

PO Box 225,
Kumeu, Auckland 0841
Ph: (09) 411 9133
Fax: (09) 411 9233

Solicitor/ Counsel Acting: Neshia R. Holdaway
Director

Email: neshia@norwestcitylaw.co.nz

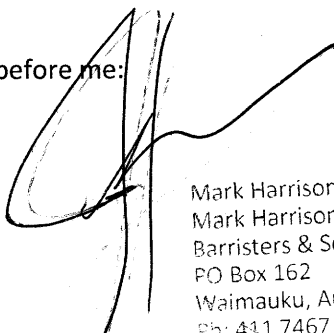
Affidavit of Helen Irene Mitchell
Dated 23 August 2019

I, Helen Irene Mitchell of Kumeu, Auckland, Retired affirm:

1. I am named as the third Defendant in the proceeding issued by Dennis Smith [**CIV- 2018-044-001629**]. I am filing this affidavit in support of strike-out application and security for costs with Ian James Plowman.
2. Around 6 November 2018, I was approached by Ian James Plowman to assist him in the eviction of the Defendant, Dennis Smith. I have met Mr Smith only once. I believe Mr Smith was a squatter.
3. My involvement was in terms of assisting the Police and for that reason I have been implicated in the proceedings. I duly consented to the Trespass Notice that was served on Mr Smith. Attached **marked "A"** is a copy of the Trespass Notice bearing my signature and approval.
4. I believe that the Defendant has made me a party to the proceeding in retaliation of me assisting the Police and Ian James Plowman.
5. I do not see how Mr Smith can claim damages from me. I am the owner of Smith Road and Corban Trust has an easement of right of way over Smith Road. The case is unrelated to me.
6. I am on superannuation. I have no financial means of paying Mr Smith the damages he is seeking from me.
7. Mr Smith himself is a beneficiary. It is unlikely that he will be able to pay my costs if the proceeding did proceed to a hearing and if I was successful.
8. I respectfully ask the court that the proceeding **CIV- 2018-044-001629** be struck out. In the alternative, that the Plaintiff, Mr Smith be ordered to pay security for costs ahead of the hearing.

Affirmed in Auckland)
on this 23rd day of August 2019))

before me:



Mark Harrison - Principal
Mark Harrison & Associates
Barristers & Solicitors
PO Box 162
Waimauku, Auckland 0842
Ph: 411 7467 Fax: 411 7463



Helen Irene Mitchell

of trespass notice

[Read INSTRUCTIONS below and then complete service details immediately. Service is effected if the person served the notice is not the occupier but an agent of the occupier - the full name and address of the person who served the notice is also required.]

THIS NOTICE (photocopy attached) was served:

on DERNIS ARTHUR SMITH
[Name of Person served]

on the 6TH day of NOVEMBER 2018 at 5-34 a.m/p.m.

at 51 SMITH ROAD KUMU
[Place where service was effected]

by JOY JAMES PLOWMAN
[Full Name of Person effecting service]

I served the Trespass Notice personally:

on DERNIS ARTHUR SMITH
[Name of Person served]

by *handing it to them / *dropping it at their feet when they refused to accept service of the notice.

They acknowledged / did not acknowledge that they are the person named in the notice.

They are / are not personally known to me.

I believe their *date of birth is / *approximate age is 60 years.

Occupier's full name JOY JAMES PLOWMAN - NIKAU GROVE NURSER

Occupier's address and phone number 35 ADVEYE RD COCKLE BN, HOWICK

More relevant details:

I HAD A NEIGHBOUR PRESENT 021 927705

AS A WITNESS AND WE RECORDED THE SERVING

[For example, "issued because of alleged disciplinary behaviours" or "issued because of alleged theft". Record here the authorisation if the person who served the notice was a person authorised by the occupier and not the occupier, and attach a copy of the authorisation to this form, if applicable.]

AT 5 37 PM

This is the annexure marked "A" referred to in the annexed affidavit of Heaven Irene Mitchell sworn at Waiwaka This 2 day of Aug 2018 before me:

A Solicitor of the High Court of N.Z./JP

J.M.

To: DENNIS ARTHUR SMITH

[Name of person being warned]

15 TAVEKANA Rd TITIRANGA OR HOUSE TRUCK
REGO 1988
NO FIXED ABO

[Address of person being warned]

In accordance with the above Act and Section you are hereby warned to stay off the place known as:

51 & 53 SMITH Rd KUMERA BEING
BOTH PROPERTIES LOCATED ON SMITH Rd KUMERA

[Address of location which Person is banned from]

It is an offence punishable by a fine not exceeding \$1,000.00 or imprisonment not exceeding 3 months to enter the above address within 2 years from the date you receive this warning.

The occupier of the above address is:

HELEN IRENE MITCHELL
NIKAU GROVE NURSERY AND

[Full name of Occupier]

This warning is given by the occupier/person* authorised by the occupier of the above address:

H. Mitchell
H. Mitchell

[Signature of Occupier or Person authorised by the Occupier]

HELEN IRENE MITCHELL
For JAMES PLOMMA

[Print Full Name of Occupier or Person authorised by the Occupier]

12.00 MID DAY 8/11/2018

[Date that this notice takes effect]

* Cross out the words that do not apply.

H.M.