

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

**Interlocutory Application on Notice to Strike-Out Proceedings and
in the Alternative Seeking Security for Costs
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

To: The Registrar of the District Court at North Shore

And

To: The Defendant

This Document Notifies you that:

1. The Applicants, **Ian James Plowman** and **Helen Irene Mitchell** will on
apply to the court for an order:

(a) that the application, **CIV 2018-044-001629** be struck-out;

and in the alternative

(b) the Defendant, Dennis Smith pay security for costs in relation to the
proceeding **CIV 2018-044-001629**

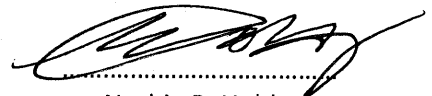
2. **The grounds on which each order is sought are as follows:**

- (i) the requirements of the lease have not been established;
- (ii) there was no lease or agreement to lease; hence no breach of lease;
- (iii) the Property Law Act 2007 does not apply;
- (iv) the pleading discloses no reasonable cause of action; no Landlord - Tenant relationship;
- (v) the proceeding is an abuse of the court process; has filed an unmeritorious case which is frivolous and vexatious
- (vi) the Defendant is a vexatious litigant; has filed three other proceedings against the Applicant Ian Plowman and has been unsuccessful; were struck-out;
- (vii) The Defendant has taken similar step with one other Company Director arising from similar actions;
- (viii) The District Court does not have jurisdiction to deal with Property Law Act matters in relation to a Lease.

3. The application is made on reliance of the Property Law Act 2007, Land Transfer Act, District Court rules and Affidavit in support filed by the Applicant Ian James Plowman (First and Second Defendant) and Helen Mitchell (Third Defendant)

4. The Applicant is seeking costs; full indemnity costs and increased costs and security for costs.

Dated this 23rd day of August 2019



Neshia R. Holdaway
Counsel/Solicitor for the Applicants
(First, Second and Third Defendants)

This Notice is filed by **Neshia R. Holdaway**, Solicitor for the Applicant whose address for

service is at the offices of Norwest City Law, Level 1, Unit A7, 11D Factory Road, Waimauku Village Centre, Waimauku 0812, telephone number is (09) 411 9133.

Documents for service on the Applicant may be left at that address for service or may be:

- (a) Posted to the solicitor at PO Box 225 Kumeu 0841;
- (b) Transmitted to the solicitor by facsimile to 09 411 9233;
- (c) By email to: neshia@norwecitylaw.co.nz