

IN THE COUNTY COURT AT WATFORD

Claim No. K00WD700

BETWEEN

FLEXSPACE NO.2 LLP

Claimant

and

**(1) BOSECOM LIMITED
(2) RAVI KUMAR BOSE**

Defendants

PARTICULARS OF DEFENCE

Introduction

1. The Claimant has breached the terms of the Lease on a number of occasions outlined below.
2. The Claimant has lied on the court papers in hopes to convince the court that the Defendant have not paid rent by defaulting and they have a valid reason to forfeit.
3. The Claimant has failed to provide multiple services required by them under the Lease agreement over the course of the duration of the Defendants stay as outlined below and thus further breaking their own Lease prior to their claim of non payment
4. The Defendant had reached out to the Claimant multiple times with no response before choosing to withhold the Rent.
5. The Claimant has refunded Rent payments to attempt to solidify their position in a non-reasonable timescale thus failing to validate their forfeiture.
6. The Defendant has produced Defence Exhibits at this link:
<https://bosecom.org.uk/k00wd700/>

The Claimant's Obligations Under the Lease

7. Agreed with the Defendant under the Lease, the Claimant agreed the following:

- a) By Clause 5.1, (Where necessary) maintain and keep in repair and decorate and (where necessary) renew, replace where appropriate the Common Parts of the Estate including the structure of the building of which the Premises forms part and Service Media (but excluding any areas or items which fall within the liabilities of a tenant) and anything used by or for the Estate in common with other premises in a reasonable standard of repair.
- b) By Clause 5.2, Manage the Estate whether by engaging managing agents or by the Landlord's own staff or the staff of an associated company employing or engaging staff (whether by the Landlord or by agents or others) or independent contractors in connection with the management and security of the Estate and the provision of the Landlord's Services
- c) By Clause 5.3, Provide install operate maintain inspect test repair and replace all plant machinery electrical systems security systems fire detection fire fighting and emergency lighting equipment solely serving Common Parts
- d) By Clause 5.4, Clean and light the Common Parts maintain and cultivate any landscaped areas and provide and maintain estate signage

The Decision to Withhold the Rent

- 8.** The Claimant failed over a 6-month period, from 22-10-2022 to 26-04-2023 to rectify a critical roof leak breaching Clause 5.1 which was from the roof of the Premises that would classify as a Common Part due to the roof of the Premises being a Fire escape.
- 9.** The Claimant failed to commit to rectifying the issue as well as failed to communicate with the First Defendant resulting in the loss of income to the First Defendant as well as the inability to use the water leaked space within the Premises.
- 10.** The Defendant contacted the Claimant multiple times over the 6 month period providing screenshots and was met with no response or action from the Claimant. The evidence to this initial report to the centre manager for this particular incident that took place on 22-10-2022 is present here [\[Defence Exhibit 1A – Roof Leak\]](#)

11. Another subsequent leak happened again in March to which the Claimant again did not respond. From the outset of the Lease the Defendant could not get any insurance on the building due to lack of Fire Safety in communal areas as well as a failure to provide a valid EICR report for the Premises. The Claimant, from the start, breached Clause 5.3.
12. This second leak triggered the First Defendant to withhold the Rent since the First Defendant believed the Claimant to have broken the Lease agreement, however having no option to leave remained at the Premises.
13. By the 4th of April the First Defendant had already taken legal advice regarding the leaks and other breaches of the Claimant and was advised to pay the Rent, which was duly instructed to be done on the 8th of April 2023 [\[Defence Exhibit 2 – Payment Instruction\]](#)
14. On the 17th of April the First Defendant received the Rent invoice for May 2023 [\[Defence Exhibit 4C – Invoice from FLEXSPACE Issued 17-04-2023\]](#)

The Invalid Forfeiture

15. Both the First and Second Defendant's believes that the true reason the Claimant has acted to not respond is due to the fact that they were planning to demolish the site for renovation. The evidence for this was presented by another Tenant requesting an extension to their license agreement found here [\[Defence Exhibit 15 – Joe Iannotta – Email with Thomas Richard Tyler\]](#):
16. The Defence above shows this statement highlighted from the email above: **"Yielding up / Reinstatement:** The unit is to be returned to us completely cleared of all fixtures, fittings, equipment, floor coverings, stock, belongings and rubbish. Other items to be removed will include all extraction and ventilation equipment and ducting. Any holes in the external walls / roof will need to be ***made good on a temporary basis pending demolition of the building.*** Our manager, Lucas, has taken a photographic schedule and if terms for this lease extension are agreed we will produce a detailed schedule of requirements from this."
17. The Defendant had at this point 1 year 5 months left on the Lease and thus the Claimants stance to create a reason to evict where possible is proven by the Defence Exhibit shown.

18. The Second Defendant, on the 26th April 2023 arriving at the premises was met with a steel sheet on the entrance. Notably absent were any visible eviction notices, whether on the fire doors, side entrance, shutter, or main entryway.
19. Since no signage or notices were present on the entrances and there was a clear entry route to the building through the side entrance the Second Defendants contractor entered the building within 5 minutes of being at the scene. The Second Defendant assumed a practical jest was being played as various contractors had done this in the past.
20. After a short time, the Second Defendant was met with the Centre Manager who claimed the Lease had been forfeited due to the non-payment of the Rent.
21. The Second Defendant expressed that the Rent had been paid prior to entry as instructed to be completed on the 8th of April 2023 to a Contactor working for the First Defendant.
22. After communication with said Contractor the Contractor expressed, they had failed to make payment on Saturday 8th April 2023 but stated they paid on the 25th April 2023 in the evening.
23. The Defendant asked for proof of payment from the Contractor and a screenshot showing the payment was on 25th April 2023 7:46am was sent directly to the Claimant.
24. The Defendant did not check the screenshot or otherwise and this is outlined by the content of the email: [\[Defence Exhibit 3 – Payment Proof Email\]](#)
25. The First Defendant still had not receive the communication from the Claimant stating in writing that a Forfeiture was complete.
26. At 4:23PM an email was received by the First Defendant's solicitor expressing that the Lease was Forfeit and that the First Defendant had "broken into the Premises" [\[Defence Exhibit 4A - Initial Contact with FREETHS\]](#) and [\[Defence Exhibit 4B - Letter from FREETHS\]](#)

Validity of First Defendants Tenancy

27. The First Defendant did not respond as the Rent was paid and was awaiting a refund from the Claimant to further cement their Forfeiture however the Defendant never received one.

28. Since no communication from the Claimant was given nor refund provided, by the 5th May 2023, the First Defendant assumed that the Tenancy was intact and proceeded to pay the Rent for May.

05 May 23	FLEXSPACE UNIT 6 400000001132079153 BOSEC001H 308012 10 05MAY23 16:08	FPO	3,403.20
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29. Again, since no communication or actions such as a refund were given by the Claimant the First Defendant assumed that the tenancy rights were still intact.

30. By this point over 30 days had passed since the Invalid Forfeiture of 26th April 2023 the First Defendant had not received an Invoice for June in the typical mid-month fashion.

31. On 1st June 2023 the Rent was not taken out of the First Defendants account, so the Second Defendant took advice once again and was told to pay by the 10th of June 2023.

The Invalid Trespass and Claimants Breach of the Lease

32. The Claimant claims that they instructed the company VPS to lock the doors on the 11th June 2023 with a security company K9 Patrol. The First Defendant believes this is a ploy to deceive the court, the evidence for this is on video recording showing the locking of the Premises being on the 10th June 2023. [\[Defence Exhibit 5 – 10-06-2023 Lockout Video Footage\]](#)

33. The Second Defendant makes the valid that the Claimant has broken the Lease by not allowing the full time to be elapsed before claiming a valid forfeiture, by the Lease Clause 9.1, "The Rent, in additional Rents or any other sums payable under this Lease is outstanding for ten days after becoming due whether formally demanded or not."

- 34.** The Second Defendant Claims that by Clause 9.1 that if the Rent was set on the 1st of every month that there would be an additional 10 days after that date before the Lease would be void. This date would fall on the 12th June 2023 from midnight being a valid Forfeiture.
- 35.** The Second Defendant believes that the Claimant has lied to the court in hopes that the court will validate their right to Forfeit should them holding the two months Rent prior to June become invalid.
- 36.** On the 11th June 2023 at which point a number of customers had come to the Premises and attempted to regain their property but could not as they be met with security. [\[Defence Exhibit 7B – Attending due to angry customers\]](#)
- 37.** The Second Defendant and Police attended the scene on the 11th June 2023. The Security posted on scene by the Claimant clearly stated that the lockout occurred yesterday, however the timecode on the police footage clearly stated 11-06-2023 [\[Defence Exhibit 7C – Timecode Match our CCTV\]](#).
- 38.** The Second Defendant was asked to provide evidence to the police that they were legitimately allowed to be there, and with no information given by any notices on the Premises or Security posted they left the scene deeming the Second Defendant had a right to be there. [\[Defence Exhibit 7D - Police Verifying the Lease and Rent Payments\]](#)
- 39.** The Police further Validates the date in the form of a letter of their attendance on the 11th June 2023 [\[Defence Exhibit 7A – Police Letter\]](#)
- 40.** The Second Defendant re-entered the Premises the evening of the 11-06-2023 by means of remote-control shutter in front of said security: [\[Defence Exhibit 7B – Attending due to angry customers\]](#) Video 5.
- 41.** The Rent for June was paid on 13-06-2023 as instructed to the First Defendant.
- 42.** After this, the Second Defendant sought clarity through recording on the situation and met with the Centre manager on the public footpath where describing concerns the centre manager admits to threatening the Second by means of security Dog and claims the

Claimant is of a distasteful nature. [\[Defence Exhibit 11A - Lucas Bayle admitting to telling Security to release a dog on me\]](#) and [\[Defence Exhibit 11B - Lucas Bayle Confirming Flexspace Lack of Communication\]](#).

43. The Second Defendant, after taking advice wrote a letter via email to the Claimants solicitor on 15-06-2023 stating that they had broken the lease agreement by accepting the Rent and that should they want the First Defendant to leave to communication with us for an amicable resolution. [\[Defence Exhibit 8A – Communication with Freeths\]](#)

44. In this letter the Second Defendant expresses all of the concerns regarding the last 3 years, the damage the Claimant has done over this period but more importantly the fact that all fire escapes were locked being a health and safety risk

45. The Claimant did not respond and as a result the Second Defendant contacted the Claimants solicitor requesting information or at the very least a response the Claimants Solicitor stated they needed to take instruction. [\[Defence Exhibit 8B - Initial Audio With Ella Carole 2023 06 19 10 23 58\]](#)

46. After this phone call on the same day at 2:21PM the First Defendant noticed a single refund for Junes rent:

19 Jun 23	FLEXSPACE NO 2 LLP REFUND 600000001151748410 308012 10 19JUN23 14:21	FPI	3,403.20
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47. The Second Defendant Believes that the Claimant was advised to refund Junes Rent based on the email sent on the 15th June 2023. And thus, accepting the Defendants tenancy up until June. However, continued to hold the Rent in a holding account, and informed the Claimant of this: [\[Defence Exhibit 9 – Flexspace response to refund\]](#).

48. The Second Defendant reading over the Least terms then wrote the email on the 20th June 2023 outlining the breach of the Lease that the Claimant had done on the 10th of June 2023. [\[Defence Exhibit 10 – Flexspace Breaks their own Lease\]](#). But was again met with no immediate response.

49. The Second Defendant wrote an email on the 23rd June 2023 another email was written to the Claimants solicitor expressing the wrong doings of the Claimant and acknowledgement from them that they represent Flexspace: [\[Defence Exhibit 11C – Flexspace Threatening behaviour\]](#).

50. On 27th June 2023, with no communication but with the action, the Claimant refunded the Rent for April 2023 and May 2023.

27 Jun 23	FLEXSPACE NO 2 LLP REFUND	FPI	6,896.40
	100000001153111120 308012 10		
	27JUN23 14:51		

51. The Second Defendant believed at this point the Claimant was advised that since, the Lease was breached on the 10th of June 2023 by means of Locking the doors without allowing the proper time allocation to First Defendant to pay the Rent, their best option would be to default back and claim the Forfeiture was valid from the 26th April 2023.

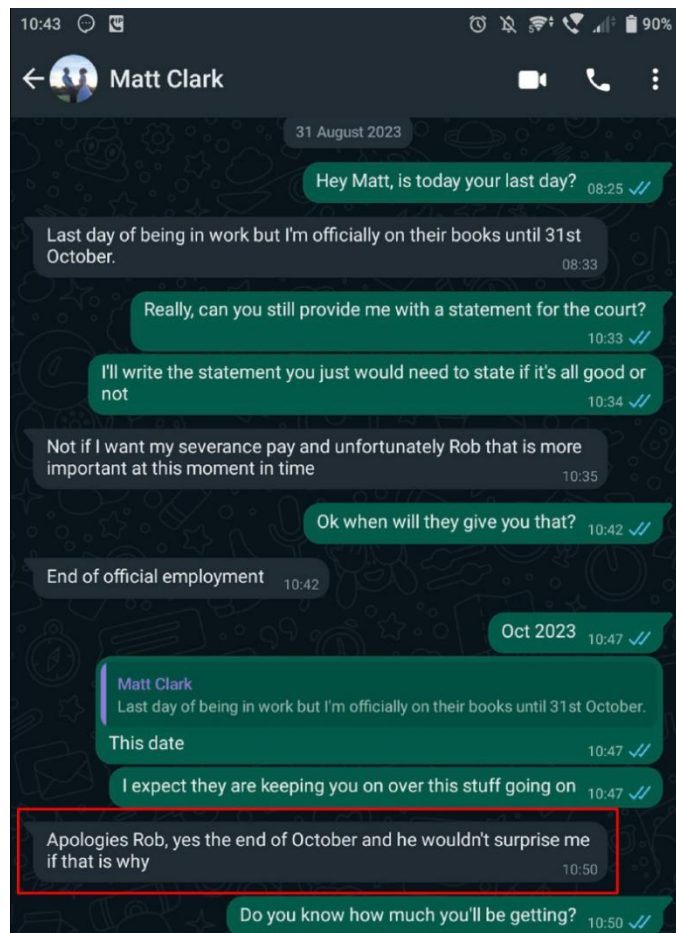
52. On the 28th June 2023 the Second Defendant wrote an email to the Claimants Solicitor again explaining the Rent would be held and requesting whether or not the Claimants Solicitor acted for the Claimant: [\[Defence Exhibit 12 – Communication on the 28 JUNE 2023\]](#).

53. Since no communication had occurred with the Claimant, the Second Defendant reached out from the 19th June 2023 to the 27th June to the Mayor of Watford as well as other parties seeking help and assistance regarding the lack of communication. We were informed to contact the fire brigade regarding the fire escapes being locked that put the First Defendants workers at risk of Death.

54. The response from the Health and Safety association of Watford was to instruct the Claimant to remove all the locks from the Premises: [\[Defence Exhibit 13 – Removal of restrictions from exits and entrances\]](#)

55. On the 4th of July 2023 finally a response was provided by the Claimants solicitor stating that the locks on the fire escapes were removed. The First Defendants find this peculiar since the Claimant claims forfeiture and trespass yet now after these events is met with this response. [\[Defence Exhibit 14 – Ella Carole Response\]](#)

56. On the 6th of July the First Defendant had already begun moving their equipment to storage since currently no suitable alternative premises was available nearby. [\[Defence Exhibit 14B – Proof of removal of our equipment from Unit 6\]](#)
57. On the 31st August 2023 the Defendant reached out to the Caretaker, who was present on all actions not completed by the Claimant and lockout events, the Defendant requested a statement but was declined since the Caretaker was afraid of the loss of their severance.



The Relief Sought

- I. The Claimant has damaged the Defendants Business and Reputation from the beginning of the Lease, a total of three contracts critically depending on the insurance and viability of the Premises has been lost in excess of £65,000 per month.
- II. The Defendant has been denied essential business insurance to employ staff.
- III. The Defendant has been denied ISO accreditations due to lack of insurance.
- IV. The First Defendants reputation is damaged as a result of these actions taken by the Claimant
- V. The First Defendant has been Forfeited by the Claimant without right to do so, the costs involved to relocate and store the business is liable back from the Claimant
- VI. The Cost of relocating from storage is also due since there was 1 year 5 months left on the lease, this cost will be circa £150,000 for a similar unit in the same area as well as the cost to migrate and redeploy the business.
- VII. The loss of earnings since April 26th 2023 where the business could no longer trade until now is also liable.
- VIII. Costs incurred in court and other expenses.