

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CIV-2014-404-3145**

BETWEEN

CNGY INVESTMENT LIMITED  
Plaintiff

AND

COUNTDOWN AUTO PARTS LIMITED  
First Defendant

SAM SOGHOMONIAN  
Second Defendant

Hearing: 16 December 2014

Counsel: M Keall for Plaintiff  
P M Webb for Defendants

Minute: 16 December 2014

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**MINUTE/ORDER OF VENNING J**

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Solicitors: Fowler & Associates, Auckland  
Denham Bramwell, Auckland  
Copy to: M Keall, Auckland  
P M Webb, Auckland

[1] This is an application for summary judgment for ejectment effectively.

[2] By way of brief background the plaintiffs are owners of property at 10 Parker Street, Papakura. The first and second defendants were the tenant and guarantor respectively of a lease of the premises. The lease expired on 1 August 2013. The possession of the property has been held over in terms of a monthly tenancy thereafter. On 10 September 2014 the plaintiff gave notice of termination of the monthly tenancy. The defendants have from time to time sought extensions of the monthly tenancy but the plaintiff has not agreed to that, save that the defendants were given additional time to vacate the premises. On the evidence before the Court, even on the defendants' case, it was agreed the defendants would vacate at the latest by 21 November or 30 November 2014. Despite that the defendants or other parties remain in occupation of the premises without the plaintiff's consent.

[3] The proceedings have been served on the defendants by substituted service as directed by the Court. They have clearly been brought to the attention of the defendants. Mr Webb has appeared in Court this morning on instructions for the defendant. He has presented an affidavit of Ms Walter, which annexes a letter from the second defendant to his solicitors. On the basis of the content of that letter Mr Webb has suggested the matter be held over to 21 December when it is expected that possession would be provided. However, given the background to this matter set out in the affidavits before the Court, the plaintiff's undoubted right to possession, I consider the plaintiff is entitled to the orders it seeks, so that if there is any further default by the defendants in providing possession, the plaintiff will have the sanction of the Court order and will be able to rely on that to effect possession.

[4] The plaintiff will have judgment as follows:

- (a) the plaintiff may immediately recover possession of all that parcel of land at 10 Parker Street, Papakura, more particularly described in the application for summary judgment;

- (b) the first defendant and the second defendant are to quit the premises and to yield vacant possession of the premises to the plaintiff within five days of today's date;
- (c) all other persons occupying the premises without the express or written authority of the plaintiff are to quit the premises and to yield vacant possession of the premises to the plaintiff within five days of today's date;

[5] The plaintiff is to have costs and disbursements as sought in the sum of \$14,328.00 together with disbursements of \$2,291.50.

  
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Venning J