

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES**

IN RE: PETITION FOR ARBITRATION

**BRUCE RUBINO, Unit
Owner Representative,**

**Filed with
Arbitration Section**

Petitioner,

JUN 13 2018

v.

Case No. 2018-02-6124

**ISLAND INN CONDOMINIUM
ASSOCIATION, INC.,**

**Div. of FL Condos, Timeshares & MH
Dept. of Business & Professional Reg**

Respondent.

FINAL ORDER OF DISMISSAL

On May 17, 2018¹, unit owner representative Bruce Rubino ("Petitioner") filed a petition for arbitration of a condominium recall dispute pursuant to ss. 718.112(2)(j) and 718.1255, Florida Statutes; Petitioner named the Island Inn Condominium Association, Inc. ("the Association") as respondent. On May 23, 2018, the undersigned issued an Order directing Petitioner to show cause why the matter should not be dismissed for Petitioner's failure to comply with s. 718.1255(4)(b), Florida Statutes, which provides:

The petition must recite, and have attached thereto, proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;
2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and
3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

On June 5, 2018, Petitioner filed a response to the Order; Petitioner included with his response a letter dated May 7, 2018, and asserted that this letter satisfied the pre-arbitration notice requirement of s. 718.1255(4)(b), Florida Statutes.

A review of the May 7, 2018, letter reveals that the drafter composed the letter on behalf of the Association, not on behalf of Petitioner, and addressed the letter to Mr. Kevin Quayle and Richard Zacur, Esq. Consequently, the May 7, 2018, letter cannot serve as notice given by Petitioner to the Association in advance of the filing of the arbitration petition. Furthermore, the May 7, 2018, letter fails to warn the Association that Petitioner intends to file an arbitration petition or other legal action in the absence of a resolution of the dispute or to give the Association a reasonable time to provide any relief requested prior to the initiation of legal action. Instead, the May 7, 2018, letter references a related matter already pending in the circuit court for the sixth judicial circuit and warns Mr. Quayle that he will be "personally, individually, and financially responsible for all actions or damages."² Because Petitioner failed to provide the Association with pre-arbitration notice, as required by s. 718.1255(4)(b), Florida Statutes, the matter must be dismissed.

Based on the foregoing, it is **ORDERED**:

The petition is **DISMISSED** without prejudice, and case number 2018-02-6124 is **CLOSED**.

DONE AND ORDERED this 13th day of June, 2018, at Tallahassee, Leon County, Florida.



Caitlin R. Mawn, Chief Arbitrator
Dept. of Business and Professional Regulation
Division of Florida Condominiums,
Timeshares and Mobile Homes
Arbitration Section
2601 Blair Stone Road
Tallahassee, FL 32399-1030
Telephone: 850.414.6867
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¹ Petitioner submitted the petition to the division on May 15, 2018; however, the division did not receive the requisite filing fee until May 17, 2018.

² I.E., Island Inn Condominium Association, Inc. v. Tom Riley, Kevin Quayle, et. al, case number 18-002910-CI.

Certificate of Service

I hereby certify that, on this 13th day of June, 2018, a true and correct copy of the foregoing Final Order of Dismissal was sent by U.S. Mail to the following person(s):

Sofiya Shoaib, Esq.
Frazier and Brown
202 South Rome Ave., Ste. 125
Tampa, FL 33606

Mollie Peck
Mollie Peck, Administrative Assistant II