

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

IN RE: PETITION FOR ARBITRATION

**The Amelia Lakes Condominium
Association, Inc.,**

Petitioner,

v.

Case No. 2009-02-4263

Willie L. Johnson,

Respondent.

_____ /

FINAL ORDER OF DISMISSAL

On May 7, 2009, Petitioner filed a Petition for Mandatory Non-Binding Arbitration. On May 12, 2009, an Order Requiring Amended Petition was entered noting the deficiencies in the petition as set out below.

The Statement of Facts in the petition alleged, in its entirety, the following:

Respondent has allowed disturbances, loud music, drunkenness, fighting, screaming and other loud activities at his unit which are a nuisance. Details are contained in the letter from Petitioner to Respondent dated February 13, 2009 attached hereto as Exhibit "B".

As pre-arbitration notice, Petitioner filed, as Exhibit "B" to the petition, a copy of a letter dated February 13, 2009 from Petitioner's attorney to Respondent stating, in pertinent part,

Amelia Lakes Condominium Association, Inc. has directed your case to me for legal enforcement. You must stop playing loud music, fighting and screaming, which are a nuisance to the neighborhood immediately [sic].

If we receive another complaint regarding loud activities from your unit, the Board of Directors has authorized me to file a Petition for Arbitration with the State of Florida Department of Business and Professional Regulation to compel you to stop playing loud music, fighting and screaming.

Petitioner's petition alleged activities that were not part of the pre-arbitration notice, including "drunkenness," and "other loud activities."

Further, the May 12, 2009 Order noted the Statement of Facts gave neither an indication Petitioner received another complaint regarding Respondent's behavior after Petitioner mailed its February 13, 2009 pre-arbitration letter to Respondent, nor when or by what means such a complaint was received or the behavior complained of. Therefore, Petitioner's Statement of Facts could not sustain an allegation of nuisance without additional facts.

Finally, the May 12, 2009 Order noted Petitioner's Statement of Facts was deficient because it did not give specific dates when Respondent played loud music, fought and screamed, so that Respondent had the opportunity to answer the specific facts as opposed to the allegation of an ultimate fact.

The May 12, 2009 Order Requiring Amended Petition directed Petitioner to file an Amended Petition on or before May 27, 2009 which includes a Statement of Facts that:

- a. Is limited to allegations of playing loud music, fighting and screaming;
- b. States when and by what means Petitioner received another complaint regarding Respondent's behavior after Petitioner mailed its February 13, 2009 pre-arbitration letter to Respondent, and the specific behavior complained of;
- c. Gives specific dates when Respondent played loud music, fought and screamed, so that Respondent has the opportunity to answer specific facts as opposed to the allegation of an ultimate fact.

The May 12, 2009 Order Requiring Amended Petition warned Petitioner that failure to file timely an Amended Petition that complied with the Order would result in dismissal of the petition. As of the date of this order, Petitioner has not filed an Amended Petition.

Base upon the foregoing, it is **ORDERED**:

Arbitration Case No. 2009-02-4263 is DISMISSED without prejudice.

DONE AND ORDERED this ____ day of August, 2009, at Tallahassee, Leon County, Florida.

Glenn Lang, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail to the following persons on this ____ day of August, 2009:

A. Jeffery Tomassetti, Esq.
406 Ash Street
Post Office Box 1443
Fernandina Beach, Florida 32035-1443

Glenn Lang, Arbitrator