



**Chepkosi v Njambi (Tribunal Case E551 of 2023)
[2024] KEBPRT 1222 (KLR) (30 August 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 1222 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E551 OF 2023
A MUMA, MEMBER
AUGUST 30, 2024**

BETWEEN
MICHAEL WANJALA CHEPKOSI **APPLICANT**
AND
VERA NJAMBI **RESPONDENT**

RULING

A. Parties & Their Representatives

1. The Applicant, Michael Wanjala Chepkosi (hereinafter “the tenant”), is the tenant occupying the suit premises, Nyakiongo Building, erected on Land Reference No. 209/231/9 located at Nairobi, the subject matter of the present suit.
2. The firm of M/S Kerongo Bosire& Company Advocates represents the tenant in these proceedings.
3. The Respondent, Vera Njambi, (hereinafter “the landlady”) herein is the Landlady, Nyakiongo Building, erected on Land Reference No. 209/231/9 located at Nairobi, the subject matter of the present suit.
4. The firm of M/S Howard & Kenneth Advocates represents the Landlady in this matter. (howard@hlaw.co.ke)

B. Dispute Background

5. On 27th October 2023, this Honourable Court delivered a ruling allowing the Tenant’s Reference and Application dated 30th May 2023 in the following terms:
 - a. The landlady’s preliminary objection dated 14th June 2023 is hereby dismissed.



- b. The Landlady's notice of alteration of terms dated 6th September 2022 and the notice of termination dated 23rd February 2023 are invalid.
 - c. The tenant to remain in the premises and continue to pay rent as and when it falls due and to enter into a formal lease with the Landlady.
 - d. Landlady at liberty to issue fresh and proper notice to the tenant.
 - e. Each party to bear its own costs.
6. Subsequently, the landlady issued a notice of termination dated 5th April 2024 on the grounds that the Tenant has continued to make irregular payments and has failed to formalize the tenancy despite being given ample time to review and consider the terms of the lease.
7. On 18th July 2024, the Landlady moved this Court vide a Notice of motion Application under a Certificate of Urgency seeking eviction orders against the Tenant to which the Tenant opposed in a Replying Affidavit dated 20th August 2024.
8. It is the Landlady's Application dated 18th July 2024 that is the subject of this ruling.

C. Claim And Defence

9. It is the Landlady's claims that the Tenant has failed to comply with the Court's directives issued vide the Ruling delivered on 27th October 2023. The landlady avers that the Tenant has continued to make irregular rent payments and formalize the lease despite been given ample time to review and consider the terms of the lease and being reminded severally.
10. The Landlady avers that based on the above grounds, she issued the Tenant with a notice to terminate dated 5th April 2024 with an effective date of 1st July 2024, which notice period has lapsed yet the Tenant has declined to vacate the suit premises.
11. In his Replying Affidavit dated 20th August 2024, the Tenant avers that he has been paying rent and has already cleared the arrears owing but the Landlady has not been issuing him with receipts which he did not produce as proof of payment.
12. Further, the Tenant avers that he is willing to make good the payments record going forward.

D. Issues For Determination

13. I have carefully analyzed all the Pleadings filed and the relevant evidence adduced before honorable Court. I considerably find that the issues that fall for determination are:

Whether this Court should grant the Orders sought.

E. Analysis Of The Law

Whether this Court should grant the Orders sought.

14. I have carefully perused the Ruling delivered by this Honourable Court dismissing the Landlady's Preliminary Objection and allowing the Tenant's Application on the grounds that the notice of termination issued was invalid and hence, ineffective.
15. Consequently, this Court directed that the Tenant continues to pay rent as and when it falls due and to formalize the tenancy between him and the Landlady.



16. I note that the Landlady has produced before this Court bank statements that clearly indicate the Tenant's irregular rent payment while the Tenant has not produced any material to prove that his rent payment is up to date.
17. Further, the Landlady has attached a letter dated 13th March 2024 where she indicated that the Tenant was yet to share his comments on the draft lease and imploring the Tenant to pay rent in full and on time.
18. In light of the above, it is clear that the Tenant has failed to comply with this Court's directives.
19. Additionally, the Tenant did not challenge the Landlady's notice to terminate which I find valid and to be in compliance with the requirements of terminating a controlled tenancy as per Section 4 (2) of Cap 301.
20. It is noteworthy that the Landlady's right to property, which right includes the right to get a return on his investment, is protected under Article 40 of *the Constitution* of Kenya, 2010.
21. Besides, it is an implied term of every Tenancy that the Tenant pays full rent as agreed and to pay the same on time.

F. Determination

22. The upshot is that the Landlady's Notice of Motion Application dated 18th July 2024 is allowed in the following terms:
 - a. The Tenant shall pay any outstanding rent arrears within 14 days and give back vacant possession to the Landlady within 30 days. Failure to which the land lady shall be at liberty to break in with the assistance of OCS Kamkunji Police Station.
 - b. Each party to bear its own costs.

HON A. MUMA - MEMBER

BUSINESS PREMISES RENT TRIBUNAL

RULING DATED, SIGNED AND DELIVERED VIRTUALLY BY HON. A. MUMA THIS 30TH DAY OF AUGUST 2024 IN THE PRESENCE OF OKORIR FOR THE LANDLORD AND NYAMBEGA HOLDING BRIEF FOR BOSIRE FOR THE TENANT.

