



**Woody Automobile Limited v Carnation Properties Limited (Tribunal Case 560 of 2020) [2023] KEBPRT 1209 (KLR) (8 September 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 1209 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE 560 OF 2020  
CN MUGAMBI, CHAIR  
SEPTEMBER 8, 2023**

**BETWEEN**

**WOODY AUTOMOBILE LIMITED ..... TENANT**

**AND**

**CARNATION PROPERTIES LIMITED ..... LANDLORD**

**RULING**

1. The dispute between the parties herein is as to the refund of the deposit paid by the tenant and as to whether the tenant fully restored the suit premises to its original position. This requirement arose out of consent orders recorded on 7.7.2020, where the parties consented as follows:-
  - a. That the tenant shall pay three months rent being Kshs 180,000/= being the rent for March, April and May 2020 on or before 15<sup>th</sup> July 2020.
  - b. The tenant shall restore the premises to its original position/condition upon which the landlord shall refund the tenant's deposit of Kshs 103,448.30/= within seven days of restoration.
  - c. The tenant shall remove all its fittings.
  - d. Failure to comply on either side, execution to issue.
  - e. Mention on 4.8.2020 to confirm compliance.
2. On 20.5.2021, when the matter was eventually mentioned, counsel for the tenant complained that the landlord had declined to release his client's deposit on allegations that the premises has not been restored. On his part, Counsel for the landlord argued that it is the landlord who restored the premises after the tenant failed to do so. The court then ordered both parties to file affidavits and an inspection report was also ordered.



3. The tribunal eventually visited the suit premises on 7.9.2021 and made the following notes on the visit:
  - a. That the Tribunal was unable to tell if indeed it was the tenant who painted the premises blue.
  - b. That it was not clear who between the parties was telling the court the truth.
  - c. That the only visible paint is white and which the tenant claims he is the one who applied.
  - d. The ceiling is in good condition, white colour which the tenant alleges to have applied.
  - e. That the premises has since been taken over by another tenant.
4. The tenant in his affidavit sworn on 7.1.2022 has stated that he incurred a total of Kshs 52,700/= in restoring the premises. He has annexed the quotation, invoices and receipts as evidence of payment of the said money. he has also stated in his affidavit that a day before the contractors finished their works, representatives of the landlord confirmed that they had no issues with the work progress. The tenant has also said that he left behind his bullet proof glass protection worth Kshs 25,000/=. I have not seen any evidence of this value given to the bullet proof glass anywhere in the affidavit.
5. The landlord on his part has only annexed quotations to his affidavit. There is no evidence of actual expenditures shown in the renovation of the premises.
6. Consequently, I am satisfied that the tenant is the one who renovated the premises and is therefore entitled to the refund of the deposit held by the landlord.

The landlord is also to release the tenant's bullet proof glass.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 8<sup>TH</sup> DAY OF SEPTEMBER 2023.**

**HON. CYPRIAN MUGAMBI**

**CHAIRPERSON**

**8.9.2023**

In the absence of the parties

