



**Ouma v Munda (Tribunal Case E036 of 2024)  
[2024] KEBPRT 1104 (KLR) (31 July 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 1104 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E036 OF 2024  
A MUMA, MEMBER  
JULY 31, 2024**

**BETWEEN**

**GEORGE ODOYO OUMA ..... TENANT**

**AND**

**ABEL MUNDA ..... LANDLORD**

**RULING**

**A. Parties And Their Representatives**

1. The Applicant, George Odoyo T/A Handshakes Furnitures (the “Tenant”), is a tenant of shops on property situate at Rongo within Migori County(the “suit premises”).
2. The Tenant appears in person in this matter.
3. The Landlord, Abel Munda, is the registered proprietor of the suit premises and hence the Landlord (the “Landlord”).
4. The Firm of Ochoki & Company Advocates represents the Landlord in this matter.

**B. Background Of The Dispute**

5. Through a Reference and Notice of Motion Application dated 21<sup>st</sup> May 2024 canvassed through Certificate of Urgency of even date, the Tenant moved this Honourable Tribunal seeking the following orders inter-alia: orders certifying the matter as urgent, restricting the Landlord from evicting, removing, distressing and harassing the Tenant and preventing him from operating his business.
6. Upon perusal of the Application, this Honourable Tribunal on 23<sup>rd</sup> May 2024 issued interim orders prohibiting the Landlord and his servant and/or agents from evicting the Tenants and from interfering with the Tenants’ quiet occupation and lawful enjoyment of the suit premises pending interpartes hearing and determination of the Tenants’ Reference and application.



7. Further, the Tribunal ordered that the Reference and Application be served upon the Landlord for hearing on 24<sup>th</sup> June 2014 and a return of service be filed.
8. In response to the Tenants' Application, the Landlord filed a Replying Affidavit dated 3<sup>rd</sup> July 2024.
9. It is the Tenant's Application dated 21<sup>st</sup> May 2024 that is the subject of this ruling.

### **C. Tenant's Case**

10. The Tenant's Application is based on the grounds that he has been a tenant in the suit premises and has been faithfully paying rent despite which the Landlord has been harassing him and has threatened to evict him from the premises.
11. The Tenant avers that the Landlord has, without any justifiable cause, locked the door to the premises thereby interfering with the normal running of the business.
12. The Tenant thus prays that the Tribunal intervenes by issuing an injunction against the Landlord failure to which he will continue to suffer irreparable loss that cannot be adequately compensated by an award of damages.

### **D. Landlords' Case**

13. The Landlord, vide a Replying affidavit dated 3<sup>rd</sup> July 2024, avers that the Tenant left the premises in December 2023 and has never paid rent since.
14. The Landlord claims that contrary to the allegations of the Tenant, he has never issued the Tenant with any notice to vacate and that the Tenant vacated voluntarily thereby abandoning the tenancy.
15. It is the Landlord's case that allowing the Tenant to keep the premises locked and abandoned while not making rent payments is unconscionable, stating that the Tenant is in rent arrears of Kshs. 75,000.00.
16. The Landlord thus prays that the Court dismisses the Tenant's Application as the same is an abuse of the Court process and the prayers sought have already been spent.

### **E. Jurisdiction**

17. The Jurisdiction of this Honourable Tribunal is not contested by either party and therefore is not in dispute.

### **F. List For Issues For Determination**

18. Having carefully perused the Pleadings presented before this Honourable Tribunal by the parties, it is therefore my respectful finding that the sole issue that falls for determination is; Whether the Tenant's Application dated 21<sup>st</sup> May 2024 should be allowed.

### **G. Analysis And Determination**

19. It is not in dispute that there exists a Landlord Tenant relationship between the parties herein warranting the Tenant to seek the intervention of this Honourable Court.
20. I take note that when the matter came up for interpartes hearing on 24<sup>th</sup> June 2024, this Court directed that the Landlord returns the Tenant's goods and to open the suit premises to allow the Tenant continue operating his business.



21. However, in his Replying Affidavit dated 3<sup>rd</sup> July 2024, the Landlord avers that the Tenant abandoned the premises and has not been paying rent since December 2023 which has resulted in rent arrears to the tune of KShs. 75,000.00.
22. I take note that despite the Tenant claiming to have paid rent in full has not attached any proof of payment of the said rent. In the circumstances, it is evident that the Tenant has remained in occupation of the premises without paying rent thereby denying the Landlord a return on his investment in respect of the suit premises.

#### **H. Orders**

23. In the upshot the Tenant's Reference and Notice of Motion Application dated 21<sup>st</sup> May 2024 are hereby dismissed in the following terms:
  - a. Tenant to immediately give vacant possession of the suit premises to the Landlord, failure to which the Landlord can break in.
  - b. OCS Rongo police station to ensure compliance.
  - c. Each party to bear their own costs.

**HON A. MUMA**

**MEMBER**

**BUSINESS PREMISES RENT TRIBUNAL**

Ruling dated, delivered and signed at Nairobi on this 31<sup>st</sup> day of July 2024 in the presence of George Odoyo, the Tenant in person and Marita for the Landlord.

**HON A. MUMA**

**MEMBER**

**BUSINESS PREMISES RENT TRIBUNAL**

