



**Kamau v Kamau & 2 others (Tribunal Case E1141 of 2022)  
[2024] KEBPRT 964 (KLR) (28 June 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 964 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E1141 OF 2022  
CN MUGAMBI, CHAIR  
JUNE 28, 2024**

**BETWEEN**

**EVA NYAMBUA KAMAU ..... PLAINTIFF**

**AND**

**PAUL WAWERU KAMAU ..... 1<sup>ST</sup> DEFENDANT**

**JAMES KYALO ..... 2<sup>ND</sup> DEFENDANT**

**NELSON NJUGUNA KAMUNYA ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. On 15.05.2024, Mr. Odhiambo Counsel for the Tenant attended court and informed the court,  
“The premises have been taken over by another tenant. We wish to file submissions for compensation as there were perishable goods that were locked in the premises.”
2. The court allowed the parties to file their submissions within fourteen (14) days as requested by the Counsel for the Tenant. None of the parties have filed their submissions as at the time of writing this Ruling.
3. I have considered the submissions by the Counsel for the Tenant that the suit premises have been given out to another Tenant and in this regard I have at the earliest opportunity to consider whether the Tribunal has the jurisdiction to hear and determine this matter.
4. From the admission by the Counsel for the Tenant, it is clear that the Landlord/Tenant relationship between the parties to this dispute no longer exists. The Tenant has clearly stated that the premises have been given out to another Tenant and her only interest is on the compensation for the goods that were in the suit premises when the same was locked by the Landlord/Respondents. In these circumstances,



the Tribunal has no jurisdiction to hear and determine this dispute and the Tenant's claim if any lies in the civil courts.

5. In the case of; Pritam vs Ratilal & Another [1972] EA, the court held,

“Therefore, the existence of the relationship of Landlord and Tenant is a pre-requisite to the application of the provisions of the Act. Where such a relationship does not exist, or it has come to or been brought to an end, the provisions of the Act will not apply. The applicability of the Act is a condition precedent to the exercise of jurisdiction by the Tribunal, otherwise the Tribunal will have no jurisdiction. There must be a controlled tenancy as defined in Section 2 to which the provisions of the Act can be made to apply. Outside it, the Tribunal has no jurisdiction.”

6. Further, in Judicial Review Case No. 25 of 2012 at Mombasa, Republic vs The Chairman Business Premises Rent Tribunal, Italian Gelati (K) Ltd, the court held,

“The tenancy had been terminated and there was no tenancy capable of being preserved by the Tribunal. There was no longer a Landlord/Tenant relationship and so the Tribunal acted without jurisdiction. The proper forum for the 1<sup>st</sup> Respondent's grievances was a civil court, that is where it should have sought intervention. The order made by the Tribunal is therefore amenable to an order of certiorari and any further proceedings pending before it can be stopped by a prohibitory order.”

7. In these circumstances, it is my conclusion that the Tribunal lacks jurisdiction to hear and determine this matter and the same is dismissed for want of jurisdiction.

8. There shall be no order as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 28<sup>TH</sup> DAY OF JUNE, 2024**

**HON. CYPRIAN MUGAMBI**

**CHAIRPERSON**

BUSINESS PREMISES RENT TRIBUNAL

Delivered in the absence of the parties.

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