



**Witeithie Farmers Limited v Domm Studios Limited (Tribunal Case
E301 of 2023) [2023] KEBPRT 1314 (KLR) (17 September 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 1314 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E301 OF 2023
CN MUGAMBI, CHAIR
SEPTEMBER 17, 2023**

BETWEEN

WITEITHIE FARMERS LIMITED LANDLORD

AND

DOMM STUDIOS LIMITED TENANT

RULING

1. The landlord's complaint dated 9th March 2023 is brought to this court under Section 12(4) of Cap 301 on 22nd March 2023 in the following terms:-
 - i. The complaint relates to termination of the tenancy which has not been objected by the Tenant, Domm Studios Limited
 - ii. The complaint further concerns the Tenant that he/she is in arrears and still holds onto the premises which the landlord had intended to take over possession.
2. On the same date of March 2023, the landlord filed a notice of motion where he prayed the following:-
 - a. That this Honourable Tribunal be pleased to issue an order of forcible eviction against the Tenant/Respondent, his servants, agents, employees from shop No. 6 (ground floor) on L.R. No. 4953/8/v-Kwame Nkrumah road, Thika.
 - b. That this Honourable Tribunal be pleased to issue Expeditious Auctioneers the mandate to carry out the eviction.
 - c. That this Honourable Tribunal be pleased to order the OCS, Thika police station to provide security to the Applicants and the Auctioneers/court in carrying out eviction at shop No. 6 (ground floor) on L.R. No. 4953/8/v-Kwame Nkrumah road, Thika.



- d. That the Tenant/Respondent be ordered to pay all costs to be incurred by the landlord/Applicant in the eviction exercise.
3. The grounds that the landlord/Applicant seeks above orders are as follows;
 - i. That the Respondent has been a sub-tenant in the suit premises known as Shop No. 6 (ground floor) on L.R. No. 4953/8/v-Kwame Nkrumah road, Thika.
 - ii. That upon expiry of the lease between the landlord and the main tenant, the landlord decided not to renew the same as the landlord intended to take possession of the shop and utilize it for a period longer than three years.
 - iii. That the landlord issued to the sub-tenant and Respondent herein a notice to terminate the sub-tenancy under Sections 4 and 5 of the [landlord and tenant \(shops, hotels and catering establishments\) Act](#).
4. On the same day of 22nd March 2023, the landlord's director Mr. Peter Njuguna Mwangi of Post Office Box Number 2044-0100, Thika filed a supporting affidavit dated 9th March 2023 where he deposes that the Respondent is a sub-tenant and has occupied the suit premises located on shop No. 6 (ground floor) on L.R. No. 4953/8/v-Kwame Nkrumah road, Thika. He further avers that the landlord aware of the sub-tenancy relationship between the tenant and the Respondent proceeded to issue a notice of termination of tenancy to the sub-tenant dated 27.05.2022 in accordance with the law- annexed and marked "PNM1" which has since expired.
5. On 22nd March 2023, together with the above application, the landlord/Applicant filed a notice to terminate or alter terms of the said tenancy under Section 4(2) of Cap 301 dated 9th March 2023 where he cited the following grounds:-
 - i. That the tenancy between the landlord and the main tenant has terminated.
 - ii. That the landlord has no tenancy agreement with Domm Studio Ltd., the sub-tenant.
 - iii. That the landlord wishes to take over its property and utilize it for its business for three years.
6. On 3rd May 2023, both parties were represented in this Honourable court by their Advocates. Mr. Norman Otieno for the tenant/Respondent requested for fourteen (14) days from 3rd May 2023 to respond which Mr. Eric Kinyua appearing for the landlord/Applicant did not object.
7. On 30.5.2023, the two Advocates were present and Mr. Otieno for the Tenant/Respondent said that he had not filed a response and sought a further hearing date which Mr. Kinyua did not object. The court directed that the application was to proceed with written submissions within 21 days thereof. The parties were further allowed leave to file any pleadings and submissions within this period.
8. On 12/7/2023, Miss Wandua holding brief for Mr. Kinyua for the landlord/Applicant was present and observed that the application dated 9/03/2023 had not been opposed. The Advocate for the Tenant/Respondent was not present.

Issues

9. The issues I find in this reference are as follows:-
 - i. If the termination notice was lawful.
 - ii. That the sub-tenant continues to be in occupation of the suit premises even after he was given termination notice as prescribed in Section 4(2) of Cap 301.



- iii. if the sub-tenant should be evicted.

Determination

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- i. On issue Number (i), the termination of the tenancy notice dated 27th May 2022 is lawful as it has followed the prescribed form as laid out in Section 4(2) of Cap 301 and the grounds set out found to be valid. It has therefore been approved by this court. Furthermore, the tenant did not file any reference to oppose the said notice.
- ii. On issue Number (ii), the tenant's continuous occupation of the suit premises is illegal as the notice of termination of his tenancy expired a long time ago.
- iii. In view of the above determination, the tenant is hereby ordered to vacate the suit premises by 30th September 2023 failure to which the landlord will be at liberty to evict him with the assistance of OCS Thika police station.
- iv. Costs of Kshs. 15,000/= is awarded to the landlord payable by the Tenant.

RULING DATED, SIGNED AND DELIVERED THIS 17TH DAY OF SEPTEMBER 2023.

HON. CYPRIAN MUGAMBI - CHAIRMAN

HON. JOYCE MURIGI - MEMBER

