



**Fabian Investment Limited v Deveer Developers Limited (Tribunal Case
E452 of 2023) [2023] KEBPRT 1319 (KLR) (18 July 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 1319 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E452 OF 2023
CN MUGAMBI, CHAIR
JULY 18, 2023**

BETWEEN

FABIAN INVESTMENT LIMITED TENANT

AND

DEVEER DEVELOPERS LIMITED LANDLORD

RULING

Introduction

1. The Tenant's application dated 4th May 2023 seeks orders that the Landlord/Respondent be restrained from increasing rent from Kshs. 80,000/= to Kshs. 110,000/= without following the right procedure. The Applicant has also sought an order restraining the landlord from in any manner whatsoever interfering with the tenant's quiet occupation and lawful enjoyment of shop No. 8 on plot No. 209/232/10 OTC Building, hereinafter, the suit premises.

The Tenant's Depositions

2. The tenant has filed an affidavit sworn on 4/5/2023 wherein it has deponed that the tenant has been paying a monthly rent of Kshs. 80,000/=.
3. The tenant has further deponed that the landlord has increased the rent to Kshs. 110,000/= though the landlord has never served the tenant with any notice to increase rent.
4. That the tenant has heavily invested in the suit premises and unless the landlord is restrained, he stands to suffer loss and damage.



The Landlord's Depositions

5. The landlord's replying affidavit sworn by Sunil Savla, a director of the landlord has deponed that the notice dated 4/4/2023 was issued in good faith and not in breach as alleged and offers justiciable reasons.
6. The landlord has also deponed that the Respondent's right to increase rent cannot be denied provided that it was justifiable and sufficient notice was provided.
7. It is further deponed that in abuse of the court process, the tenant has not paid rent since the filing of this suit.
8. That the Tribunal has powers to approve the terms of the tenancy notice in its entirety or subject to amendments or alternatives.

Analysis and Determination

9. I think the only issue that arises for determination is whether the landlord's notice to increase rent is a valid notice under the provisions of [Cap 301](#).
10. I have seen the notice dated 4/4/2023 and it does not satisfy the requirements of a statutory notice as provided for under Section 4 of [Cap 301](#). It cannot therefore be the basis for the increment of rent and I hold it to be invalid and of no legal consequence.
11. The upshot of the above finding is that; the tenant's complaint and application dated 4/5/2023 have merit and are allowed. The tenant will have the costs of the application and complaint assessed at Kshs. 30,000/=.

RULING DATED, SIGNED & DELIVERED VIRTUALLY THIS 18TH DAY OF JULY 2023

HON. CYPRIAN MUGAMBI

CHAIR PERSON

18.7.2023

In the presence of:-

Mr. George Muchai ----tenant

In the absence of the landlord.

