



**Almumin Advertising Limited v Kinuthia & another (Tribunal Case
E374 of 2023) [2023] KEBPRT 711 (KLR) (Civ) (20 September 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 711 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
CIVIL**

**TRIBUNAL CASE E374 OF 2023
GAKUHI CHEGE, VICE CHAIR & J OSODO, MEMBER
SEPTEMBER 20, 2023**

BETWEEN

ALMUMIN ADVERTISING LIMITED APPLICANT

AND

ROSEMARY WANJA KINUTHIA 1ST RESPONDENT

NAIROBI CONNECTION SERVICES AUCTIONEERS 2ND RESPONDENT

RULING

1. I wish to commence this ruling with a quotation from the decision in the case of *Pritam v Ratital & Another* (1972) EA 560 wherein Madan J had the following to say at page 562 on the issue of the Tribunal's jurisdiction under Section 2 of the [Landlord and Tenant \(Shops, Hotels and Catering Establishments\) Act](#), Cap. 301, Laws of Kenya.

“As stated in the Act itself, it is an Act of Parliament to make provision with respect to certain premises for the protection of tenants of such premises from eviction or from exploitation and for matters connected therewith and incidental thereto. The scheme of this special legislation is to provide extra and special protection for tenants. A special class of tenants is created. Therefore, the existence of the relationship of landlord and tenant is a prerequisite 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”.



2. In the replying affidavit sworn by Rosemary Wanja Kinuthia on 19th May 2023, at paragraph 16, it is deposed as follows:-

“ 16. That the respondent avers that upon the issuance of the interim orders on the 14th April 2023, applicants have since vacated the premises leaving it in a dilapidated condition without any proper handover and without carrying out any renovations (annexed hereto and marked RK-3 are photographs of the premises after the tenant vacated”.

3. In a further affidavit sworn by Sharif Arfan on behalf of the applicant on 13th July 2023 at paragraphs 4 and 6, he deposes as follows:-

“(4) That owing to the disagreements that led to the filing of these proceedings, the company opted not to exercise the option to renew the lease and vacated the 1st Respondent’s premises as at 30th of April 2023 as per the terms of the said lease”.

(6) That as it stands there is no subsisting tenancy arrangement between the applicant and the 1st Respondent herein as the company vacated the premises and handed over the same to the 1st Respondent after the expiry of the term”.

4. It is therefore common ground that the landlord/tenant relationship between the two parties came to an end on or about 30th April 2023. This matter was filed on or about 11th April 2023 which translates to about 20 days before the said termination. As a result of the said termination, the jurisdiction of this tribunal ceased and in line with the decision in the case of Owners of Motor Vessel “Lillian S” – vs- Caltex Oil (Kenya) Ltd (1989) eKLR, the Tribunal has to down its tools.
5. As the matter cannot proceed to determination on the merits on the issues in dispute between the parties who ought to file it in the appropriate forum, I shall order each party to meet own costs in line with Section 12(1)(k) of Cap. 301 which grants this Tribunal discretion to award costs.
6. In conclusion, the final orders which commend to me in this matter under Section 12(4) of Cap. 301, Laws of Kenya are:-
- a. The reference/complaint and motion dated 11th April 2023 are hereby struck out for want of jurisdiction.
- b. Each party shall meet own costs of the case.

It is so ordered.

RULING DATED, SIGNED & VIRTUALLY DELIVERED THIS 20TH DAY OF SEPTEMBER 2023.

HON. GAKUHI CHEGE - PANEL VICECHAIR

BUSINESS PREMISES RENT TRIBUNAL

HON. JOYCE OSODO - MEMBER

BPRT

Ruling delivered in the presence of:

Ochieng for the Landlady/Respondent

Njenga for Amalemba for the Tenant/Applicant

