



**Osyena v Busibwabo Matunda Self Help Group (Tribunal Case  
E009 of 2023) [2023] KEBPRT 1294 (KLR) (14 September 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 1294 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E009 OF 2023  
CN MUGAMBI, CHAIR  
SEPTEMBER 14, 2023**

**BETWEEN**

**GABRIEL ODUORI OSYENA ..... APPLICANT**

**AND**

**BUSIBWABO MATUNDA SELF HELP GROUP ..... RESPONDENT**

**RULING**

1. The landlord's reference to the Tribunal is brought under Section 12(4) of the Act, Cap 301 dated 7.1.2023 and it concerns the tenant in that, I quote;  
  
"The tenant has not filed any reference to oppose the termination notice served on them dated 19.10.2022 and has expired. I request the rent Tribunal court and OCS Busia (K) police station order the tenant to pay rent arrears plus electricity bill and vacate the business premises."
2. The landlord's notice to terminate tenancy is the one dated 19.10.2022. The grounds upon which termination is sought are that, I quote;  
  
"The tenants have refused to pay rent; they have rent arrears of Kshs 290,000/= plus electricity bill of Kshs 6,000/=. Efforts to recover the arrears and electricity bill have failed. I request the rent Tribunal court and OCS Busia (K) police station order tenant to pay all rent arrears plus electricity bill and vacate the business premises."
3. The tenants were duly served with the notice but they did not file any reference to the Tribunal under Section 6(1) in objection thereto. I have perused the affidavit of service filed by one Mr. Hillary Okanga Onwete sworn on 21.10.2022 and I am satisfied that proper service was effected upon the tenants. I have also perused the landlord's notice to terminate tenancy and I find the same to be valid and in compliance with Section 4 of Cap 301.



4. Failure by the tenants to file an objection by way of a reference to the Tribunal effectively meant that the notice to terminate tenancy became effective on the date indicated therein in terms of Section 10 of Cap 301 which provides as follows:-

“where a landlord has served a notice in accordance with the requirements of Section 4 of this Act on a tenant, and the tenant fails within the appropriate time to notify the landlord of his unwillingness to comply with such notice or to refer the matter to a tribunal then subject to Section 6 of this Act, such notice shall have effect from the date therein specified to terminate the tenancy or terminate or alter the terms and conditions thereof or the rights or services enjoyed thereunder.”

5. Consequently, the landlord's notice to terminate tenancy in this case took effect on 1.1.2023 and beyond then, the tenants became trespassers upon the landlord's premises. The landlord's claim for the payment of rent arrears and the electricity bill also being unchallenged is found to be merited.
6. In the circumstances, I do make the following orders:-
- a. That the tenancy between the tenant and the landlord is hereby terminated.
  - b. That the tenants will render vacant possession of the suit premises within thirty (30) days of this Ruling failing which the landlord will be at liberty to evict them using a licensed auctioneer.
  - c. That the tenants will pay to the landlord the rent arrears of Kshs 290,000/= and any other accrued rent (if any) and also pay the electricity bill accrued (if any) failing which the landlord will be at liberty to execute.
  - d. The landlord will have the costs of the suit assessed at Kshs 25,000/=.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 14<sup>TH</sup> DAY OF SEPTEMBER 2023.**

**HON. CYPRIAN MUGAMBI - CHAIRPERSON**

**14.9.2023**

In the absence of the parties

