



**Maina v Kuria (Tribunal Case E551 of 2024)  
[2024] KEBPRT 1266 (KLR) (Civ) (13 August 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 1266 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
CIVIL  
TRIBUNAL CASE E551 OF 2024  
CN MUGAMBI, CHAIR  
AUGUST 13, 2024**

**BETWEEN**

**FAITH WANJIRU MAINA ..... TENANT**

**AND**

**JOSEPH NJOGU KURIA ..... LANDLORD**

**RULING**

1. The Tenant's Application dated 13.5.2024 seeks orders that the Landlord's notice to vacate be treated as null and void, that the Tribunal does enforce the terms of the lease agreement dated 24.1.2023 and that the Respondent be restrained from leasing out the demised premises to any third parties.
2. The Tenant has sworn an affidavit in support of her Application wherein she has deponed that she entered into a lease agreement over Plot No. Muguga/Jetschem/4886/9 Kikuyu (the suit premises) on 24.1.2023.
3. The Tenant depones in her said affidavit that she runs a bar in the name of Lucky Pub in the suit premises and she has been issued with a liquor license for the year 2024.
4. The Tenant has further deponed that the Landlord has issued her with a notice to vacate and it is the view of the Tenant that the notice is issued in bad faith as the Tenant is not in any rent arrears.
5. The Tenant also depones that the Landlord is using the area chief and 'DC' who have jointly threatened to evict the Tenant if she does not vacate as per the notice dated 3.04.2024.
6. It is the deposition of the Tenant that the notice to vacate is aimed as defeating justice since the lease is still in force.



7. The lease agreement annexed to the Tenant's affidavit expresses the lease period/term to be a period of five (5) years at clause B(1)(i). The tenancy between the parties is a controlled tenancy as provided for or as defined under Section 2(1) of Cap 301 of the Laws of Kenya. Consequently, the relationship between the parties is governed by the provisions of Cap 301 of the Laws of Kenya and the Tribunal is well seized of this matter.
8. The notice the Tenant seeks to have declared as null and void is the one dated 3.04.2024. I have read the said notice and do find it to be in compliance with the provisions of Section 4 of Cap 301 as far as termination notices are concerned. The notice is a valid notice, the service of which the Tenant acknowledges in her affidavit in support of her Application.
9. In electing to challenge the notice to terminate tenancy under Section 4 of Cap 301 by the filing of a Complaint under Section 12(4) of Cap 301, the Tenant clearly ran afoul of Section 6(1) of Cap 301 which provides as follows;-

“A receiving party who wishes to oppose a tenancy notice and who has notified the requesting party under Section 4(5) of this Act that he does not agree to comply with the tenancy notice, may before date upon which such notice is to take effect refer the matter to a Tribunal whereupon such notice shall be of no effect until and subject to the determination of the reference by the Tribunal.”
10. The Tenant has not filed any Reference to the Tribunal in opposition to the notice to terminate tenancy. this ought to have been the proper procedure and I hold that the filing of the instant Application by the Tenant in opposing the notice validly issued under Section 4(2) of Cap 301 is improper and does not in any way affect the validity of the said notice.
11. Consequently, I do not find any merits in the Tenant's Application dated 13.5.2024 and the same is dismissed with costs to the Landlord.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 13<sup>TH</sup> DAY OF AUGUST, 2024.**

**HON. CYPRIAN MUGAMBI - CHAIRPERSON**

**BUSINESS PREMISES RENT TRIBUNAL**

Delivered in the presence of Mr. Mbugua holding brief for Mr. Ndichu for the Applicant

