



**Bwosi v Eshuchi (Tribunal Case E176 of 2024)
[2024] KEBPRT 1628 (KLR) (23 October 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 1628 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E176 OF 2024
CN MUGAMBI, CHAIR
OCTOBER 23, 2024**

BETWEEN

HARRY KIHIMA BWOSI LANDLORD

AND

JANE NAICAR ESHUCHI TENANT

RULING

1. The Landlord's Reference brought under Section 12(4) of Cap 301 is a Complaint against the Tenant on the grounds;

"That the Tenant has not filed any Reference to oppose the termination notice served on her dated 10.7.2024 and has expired. I request the rent Tribunal court and OCS Vihiga Police station order the Tenant to pay all rent arrears and vacate the business premises."
2. The Tenant has not filed any Reference in opposing the notice to terminate her tenancy as indeed the Tribunal confirmed by its letter dated 2.10.2024.
3. Whereas that may be so, I am concerned whether or not the Tenant was actually served with the notice of termination of tenancy dated 10.7.2024. I have perused the record and I have not seen any affidavit evidencing the service of the notice upon the Tenant. The only affidavit of service filed by the Landlord is the one sworn by one Mr. Wellington Mboku Odeyo on 8.10.2024 where the process server states that on 7.10.2024, he served upon the Tenant the Reference by the Landlord, to Tribunal a supporting affidavit and a hearing notice.
4. Service of the Notice to terminate tenancy upon the Tenant is critical because the Tenant can only take the steps contemplated under Section 4(5) and 6(1) of Cap 301 after receipt by herself of the tenancy notice.



5. In the absence of any evidence of service of the notice to terminate tenancy upon the Tenant, I do not find any merits in the Reference by the Landlord dated 2.10.2024 and the same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 23RD DAY OF OCTOBER, 2024.

HON. CYPRIAN MUGAMBI

CHAIRPERSON

BUSINESS PREMISES RENT TRIBUNAL

Delivered in the absence of the parties

