



**X-Press Systems and Services Limited v Kifaru Enterprises Limited (Tribunal
Case E167 of 2023) [2023] KEBPRT 459 (KLR) (2 August 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 459 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E167 OF 2023
A MUMA, AG. CHAIR
AUGUST 2, 2023**

BETWEEN

X-PRESS SYSTEMS AND SERVICES LIMITED APPLICANT

AND

KIFARU ENTERPRISES LIMITED RESPONDENT

RULING

A. Parties And Their Representatives

1. The Applicant X-press Systems is the tenant and the rented out space on the suit premises known as Godown No 2 Spectrum Business Park, Baba Dogo Road (hereinafter the 'tenant')
2. The Firm of Waithaka & Associates Advocates represents the tenant/applicant in this matter.
3. The Respondent Kifaru Enterprises is the landlord and rented out space to the tenant on the aforementioned suit property (hereinafter the 'landlord')
4. The Firm of Kipkoech Tanui & Co Advocates represents the landlord/respondent in this matter.

B. Background Of The Dispute

5. The tenant approached this Tribunal vide an application dated February 13, 2023 in which they were seeking that the landlord be restrained from attaching, carrying or selling their goods based on the strength of the Proclamation Notice that was served on the tenant dated February 2, 2023.
6. The tenant was also seeking that the Tribunal conduct a joint measurement of the suit property to determine the lettable area since there were disagreements between the parties as to the lettable space.



C. Issues For Determination

7. I have carefully considered all pleadings and evidence before me the key issue left for determination after the Tenant requested to move out at the tail end and the landlord accepted subject to payment of two months rent is;
8. Whether the rent payable should be re-assessed based on the lettable space and whether this affects the arrears payable if any?
9. As such, I make the following orders

D. Orders

- a. The upshot is that the Tenant's Application dated February 13, 2023 is allowed in terms of prayers c and e.
- b. The Tenant shall pay rent for July and August at the 6060 sq feet undisputed before end of August 2023.
- c. The Tenant is at liberty to vacate on or before the August 30, 2023 or upon payment of the said 2 months rent whichever is earlier.
- d. Tenant and Landlord experts Kalzman and Geoeath to conduct a joint measurement of lettable area in 21 days in the presence of an expert from the Tribunal.
- e. Tenant and Landlord at liberty to file additional documents thereafter within 7 days.
- f. Reference shall proceed to full hearing on determination of arrears if any subject to valuation report filed.
- g. Hearing on September 18, 2023.
- h. No orders as to Costs.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY BY HON A. MUMA THIS 2ND DAY OF AUGUST 2023 IN THE PRESENCE OF WAITHAKA FOR THE TENANT AND TANUI FOR THE LANDLORD.

HON A. MUMA

AG. CHAIR/MEMBER

BUSINESS PREMISES RENT TRIBUNAL

