



**Mathu v Mwaura (Tribunal Case E445 of 2022)
[2023] KEBPRT 16 (KLR) (Civ) (6 February 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 16 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
CIVIL
TRIBUNAL CASE E445 OF 2022
A MUMA, VICE CHAIR
FEBRUARY 6, 2023**

BETWEEN

CAROLINE WAIRIMU MATHU TENANT

AND

BENJAMIN MWANGI MWAURA LANDLORD

RULING

A. Parties And Representatives

1. Caroline Wairimu Mathu is the applicant and rented space on the Suit Property known as Homeland Apartments located at Kamenu, Thika-Makongeni for the business. (hereinafter known as the 'tenants')
2. The tenant/applicants appears in person in this matter.
3. The respondent Benjamin Mwangi Mwaura is the landlord and rented out space for the business in the suit property to the Tenant. (hereinafter the 'landlord')
4. The firm of Kanyi Kiruchi & Co Advocates represent the respondent in this matter.

B. The Dispute Background

5. The Tenant has filed a Reference dated May 26, 2022 as well as a notice of motion application of even date seeking that the landlord reconnect electricity supply back to the premises and be restrained from interfering with their quiet occupation as well as that the landlord be restrained from evicting them.
6. The tenant filed a reference dated May 26, 2022 seeking to restrain the Landlord from interfering with their occupation of the premises. The tenant has also filed a further affidavit.



7. The Landlord has filed a replying affidavit dated August 5, 2022.

C. List Of Issues For Determination

8. It is the contention of this tribunal that the issues raised for determination are as follows;

I. Whether the landlord can evict the tenant?

D. Analysis And Findings

9. The tenant approached this tribunal on the basis that the landlord had been harassing them and interfering with their quiet possession of the premises.
10. In response to the above the landlord responded by averring that the allegations made by the tenant are false. They have stated that the tenant has failed to meet their obligations by failing to pay electricity bills contrary to what they allege and as a result, the electricity supply was disconnected by Kenya Power.
11. The tribunal is of the opinion that it is not possible to determine this matter with finality at this stage. It is not clear as to whether there exists a substantive relationship between the parties since they allege that the only factor binding them is supply of electricity.
12. Additionally, the tenant alleges that the landlord sent goons to demolish the premises. In light of this, the tribunal cannot establish the situation as is at the premises prior to conducting a Site Visit.

E. Orders

- a. An inspection of the premises shall be carried out in the presence of both parties on February, 17 at 12 noon. Parties to share costs. This is to establish the habitability of the premises after demolition.
- b. The matter shall be fixed for hearing of the reference on March 7, 2023 upon submission of the report by the inspector.
- c. Costs shall be in the cause.

HON A. MUMA

VICE CHAIR

BUSINESS PREMISES RENT TRIBUNAL

Judgment dated, signed and delivered virtually by Hon A. Muma this 6th Day of February 2023 in the presence of Muchemi Holding Brief for Kanyi for the Tenant and in the Absence of the Landlord

HON A. MUMA

VICE CHAIR

BUSINESS PREMISES RENT TRIBUNAL

