



**Mehta v Limited (Tribunal Case E1128 of 2023)
[2024] KEBPRT 696 (KLR) (At Nairobi) (26 April 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 696 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
AT NAIROBI
TRIBUNAL CASE E1128 OF 2023
CN MUGAMBI, CHAIR
APRIL 26, 2024**

BETWEEN

PRIYA MEHTA TENANT

AND

SERENGETI HOUSE LIMITED LANDLORD

RULING

Introduction

1. The Tenant's Application dated 29.11.2023 seeks an order that the Landlord be restrained from evicting the Tenant from the property known as Title Number Nairobi/Blcok 41/66 (formerly Land Reference Number 209/2768 pending the hearing of the Reference herein.
2. The Application is opposed by the Respondent who has filed a replying affidavit and a notice of preliminary objection. The notice of preliminary objection is brought on the grounds;`
 - a. That the notice to terminate dated 14.9.2023 is addressed to Kensum Enterprises.
 - b. That the Applicant states in paragraph 6 of her supporting affidavit that it is one Navdeep Singh who took up the tenancy in 1988.
 - c. That the Applicant does not disclose the capacity in which she has brought the Application/Reference. Her locus standi is not revealed.
 - d. That the Applicant is not a party to the litigation she refers to in paragraphs 11 and 12 of the supporting affidavit and does not demonstrate her connection to them.
3. I will determine both the preliminary objection and the Application together.



The Tenant's depositions

4. The Tenant's affidavit may be summarized as follows;-

- a. That she is the Tenant.
- b. That she was served with a notice to terminate tenancy under Section 4(2) of Cap 301 of the Laws of Kenya.
- c. That the Tenant's husband one Mr. Navdeep Singh Mehta took tenancy of the premises in the year 1988.
- d. That though there was an offer letter dated 3.4.2008, no lease was ever signed between the parties.
- e. That at all material times, the Tenant has been paying rent to Halifax Estate Agency Limited who have been managing the property on behalf of Westelco Limited and the building was known as Westvision House.
- f. That the Respondent who has served the notice upon the Tenant is unknown to the Tenant.
- g. That there has been previous litigation between the Tenant's husband and Westelco regarding the tenancy of the same premises.
- h. That no good reasons have been advanced for the termination of the tenancy.
- i. That Navdeep Singh Mehta was the proprietor of Kensun Enterprises and the said Navdeep S. Mehta passed away on 2.12.2022 at the Nairobi Hospital.
- j. That after the demise of her husband, the Tenant continued with the tenancy and she has continued to pay rent to the landlord as the person in occupation of the suit premises and the landlord is well aware of this situation.
- k. That the Tenant has the right standing as the person in occupation to oppose the notice to terminate her tenancy.
- l. That the notice to terminate was delivered to the Tenant and another one served at her other business suggesting that the Landlord knew that she was the one who was in occupation.

The Respondent's depositions

5. The Landlord's affidavit in response to the Tenant's Application may be summarized as follows;-

- a. That the Applicant is not a Tenant in the suit premises.
- b. That the Tenant is Kensun Enterprises whose sole proprietor is Navdeep Singh Mehta.
- c. That the Landlord served Kensun Enterprises with a notice by registered post and the Tenant's Advocates responded indicating that the Tenant would not comply with the notice.
- d. That the notice is of no effect until the Tribunal determines the Reference.
- e. That the Tenant has not asserted her legal standing in this dispute.
- f. That the Respondent is the registered owner of the suit premises.
- g. That the Respondent has no dealings with the Tenant who is a stranger to it.



- h. That the Respondent has set out in the notice the reasons for termination which the Tenant has not challenged by filing a Reference.
- i. That the law permits the Landlord to issue the current notice.

Analysis and determination

- 6. The only issue that arises for determination is whether the Tenant/Applicant is entitled to the orders sought in her Application.
- 7. Both parties have filed their respective submissions and I have read the same and will consider them in this Ruling.
- 8. It is not disputed that the notice to terminate tenancy in this matter was addressed to Kensun Enterprises. It is further not disputed that the sole proprietor of Kensun Enterprises was one Navdeep Singh Mehta and that the said Mehta was the husband of the Tenant and further that the said Mehta passed away on 2.12.2022.
- 9. The Tenant has further deposed that she is in use and occupation of the suit premises and that she has been paying rent to the Landlord. The receipts the Tenant has annexed to her further affidavit indicate that the rent was paid to Halifax Estate Agency Limited and further show that the payment was for Westvision/serengeti House. The payments were made after the demise of the husband of the Tenant though the depositor is shown to be Kensun Enterprises.
- 10. In the circumstances, I have no doubt that it is the Tenant who continued to occupy the suit premises and to run the business therein while paying rent which the Landlord accepted. The relationship between the Applicant and Kensun Enterprises is clear, it is that the Applicant continued to run Kensun Enterprises and continued to pay the rent as such. That the Applicant is the wife of the deceased proprietor of Kensun Enterprises has not been challenged by the Respondent.
- 11. The Landlord herein recognizes Kensun Enterprises as its Tenant and it is on the strength of this recognition that the Landlord issued the notice to terminate tenancy dated 4.12.2023.
- 12. The Tenant has acknowledged receipt of the said notice. Upon receipt of the notice, the Tenant was required to inform the Landlord whether he intended to comply with the notice within thirty (30) days. I do note from the Landlord's replying affidavit at paragraph 5 thereof that the Tenant did not intend to comply with the notice. The letter communicating this lack of intention to comply was not annexed to any of the affidavits by the parties.
- 13. The Tenant was also required to refer the matter to the Tribunal if he was not minded of complying with the notice. In this regard, Section 6(1) of Cap 301 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 the 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.”
- 14. I do note that the Tenant filed a Reference dated 14.11.2023. In agreement with Section 6(1) of Cap 301, the notice to terminate tenancy served upon the Tenant is therefore of no effect until the Reference filed by the Tenant has been determined by the Tribunal.



15. Consequently, I do find merits in the Tenant's Application dated 25.11.2023 and the same is allowed in terms of prayers 3 and 4 thereof.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 26TH DAY OF APRIL, 2024

HON. CYPRIAN MUGAMBI

CHAIRPERSON

BUSINESS PREMISES RENT TRIBUNAL

Delivered in the presence of Mr. Sigonga for the Landlord and in the absence of the Tenant.

