



**Runo v Gathoni & 4 others (Tribunal Case E065 of 2023)  
[2023] KEBPRT 609 (KLR) (22 September 2023) (Judgment)**

Neutral citation: [2023] KEBPRT 609 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E065 OF 2023  
A MUMA, AG. CHAIR  
SEPTEMBER 22, 2023**

**BETWEEN**

**EMMAH WAIRIMU RUNO ..... TENANT**

**AND**

**JACINTA GATHONI ..... 1<sup>ST</sup> LANDLORD**

**SAMUEL KIBUNJA GICHUKI ..... 2<sup>ND</sup> LANDLORD**

**MUTHONI ..... 3<sup>RD</sup> LANDLORD**

**JAMES KARIUKI ..... 4<sup>TH</sup> LANDLORD**

**MARY WAMBUI ..... 5<sup>TH</sup> LANDLORD**

**JUDGMENT**

**A. Parties And Their Representatives**

1. The applicant Emmah Wairimu Runo is the tenant and rented space on the suit premises located on Nakuru Municipality Block 5/98. (hereinafter the “tenant”).
2. The firm of MKN & Co Advocates represents the tenant in this matter.
3. The respondents are the appointed representatives of the families of the registered proprietors of the suit property. (hereinafter the “landlord”)
4. The firm of Wachira Waiganjo & Co Advocates represent the respondents in this matter.

**B. The Dispute Background**

5. The current suit was instituted by the tenant *vide* a Reference dated April 13, 2023 and a Notice of Motion Application under Certificate of Urgency of even date under section 12(4) of the [Landlord and Tenant \(Shops, Hotels and Catering Establishments\) Act](#) cap 301. The tenant was seeking orders



restraining the landlords from evicting, harassing and interfering with their possession of the premises. Additionally, the tenant wanted an order allowing them to pay rent to the Tribunal.

6. The respondents have filed a Replying Affidavit dated May 15, 2023 opposing the assertions by the tenant.
7. The Tribunal pronounced itself on the matter on August 11, 2023 and gave direction to the tenant as to payment of rent and required them to provide evidence of payment of rent to the landlord's agents.

### **C. Jurisdiction**

8. The jurisdiction of this Tribunal is not in dispute.

### **D. The Tenant/applicant's Claim**

9. The Tenant filed a Reference and a Notice of Motion application under Certificate of Urgency and Supporting Affidavit dated April 13, 2023 which pleadings form the basis of this claim.

### **E. The Landlord/respondent's Claim**

10. The respondent filed a Replying Affidavit dated May 15, 2023 opposing the assertions as raised by the tenant in their Application.

### **F. Issues For Determination**

#### **a. Whether the Tenant made payment to the landlord's agents?**

### **G. Analysis And Determination**

11. Having previously pronounced itself in this matter, the Tribunal shall proceed to the only issue remaining being whether the tenant actually paid rent to the Agent company as alleged.
12. The tenant had previously annexed receipts but the same did not have a logo or letterhead of the agent company. As such I could not verify the authenticity of the same as having been issued by the agents.
13. The tenant has adhered to the orders of the Tribunal and provided the original receipts issued by the agent company Point A Commercial Agencies. The same are for the period between March 2021 up to March 2023 of Kshs. 40,000.00 each.

### **H. Orders**

14. I therefore proceed to order as follows;
  - a. The upshot is that the Tenant's Reference dated April 13, 2023 is allowed in the following terms;
  - b. The orders issued in the previous ruling of August 11, 2023 remain in force
  - c. I find that the tenant complied in payment of rent and it is the agent therefore who failed to remit the same to the landlord.
  - d. The landlord should then take it up with the agent company in the right forum.
  - e. Original receipts provided by the tenant can be returned back to them.
  - f. Each party shall bear their own Costs.



**RULING DATED, SIGNED AND DELIVERED VIRTUALLY BY HON A. MUMA THIS 22<sup>ND</sup> DAY OF SEPTEMBER 2023 IN THE PRESENCE OF MS. SWAKA FOR THE TENANT AND CHERUIYOT FOR THE LANDLORD.**

**HON A. MUMA**

**AG. CHAIR/MEMBER**

**BUSINESS PREMISES RENT TRIBUNAL**

