



**Makatiani v Shitinda (Tribunal Case E058 of 2024)
[2024] KEBPRT 680 (KLR) (26 April 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 680 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E058 OF 2024
CN MUGAMBI, CHAIR
APRIL 26, 2024**

BETWEEN

ROBERT MAKATIANI APPLICANT

AND

RAZIA SHITINDA RESPONDENT

RULING

1. The Landlord's Reference dated 26.3.2024 is brought under Section 12(4) of Cap 301 of the Laws of Kenya on the grounds that:-

"The Tenant has not filed any Reference to oppose the termination notice served on her dated 13.4.2023 and has expired. I request the Rent Tribunal Court and OCS Khayega police station order the Tenant to pay rent and to vacate the premises."
2. The Landlord's notice to terminate tenancy is the one dated 13.4.2023 and is brought on the grounds:-

"That the Tenant has refused to pay rent, she has rent arrears of Kshs. 45,000/=. Efforts to recover the rent arrears has failed, I request the Rent Tribunal court and the OCS Khayega police station to order the Tenant to pay all the rent arrears and vacate the business premises."
3. The notice to terminate tenancy was served upon the Tenant on 15.4.2024 and an affidavit of service has been filed by Mr. Anthony Masyongo, a licensed process server.
4. The Tenant though served has not notified the landlord that he does not wish to comply with the notice to terminate tenancy neither has he filed any reference to the Tribunal in opposition to the notice to terminate his tenancy in conformity with Section 6(1) of Cap 301 of the Laws of Kenya.



5. The consequence of the failure by the Tenant to refer the matter of the notice to the Tribunal is that the Landlord's notice to terminate tenancy dated 13.4.2023 became effective on 1.7.2023 and the tenancy therefore stood terminated from the effective date.
6. Consequently, I do find merit in the Landlord's notice to terminate tenancy and the same is approved in its entirety. That being the case, it is hereby ordered;-
 - a. That the Tenant will pay the Landlord the outstanding rent arrears up to the date of this Ruling.
 - b. That the Tenant will render vacant possession of the premises failing which the Landlord will be at liberty to forcefully remove the Tenant from the premises using a licensed auctioneer.
 - c. That the Tenancy herein is declared as terminated with effect from 1.7.2023.
 - d. That the Tenant will bear the costs of the Reference.

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

HON. CYPRIAN MUGAMBI

CHAIRPERSON

BUSINESS PREMISES RENT TRIBUNAL

Delivered in the absence of the parties

