

KENYA / JUDGMENT

Mathiu v Ng'ang'a [2026] KEBPRT 14 (KLR)

[2026] KEBPRT 14 (KLR)**COURT**

Business Premises Rent Tribunal

BEFORE

N Wahome, Joyce Murigi

CASE / FILE NUMBER

Tribunal Case E1181 of 2024

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Mathiu v Ng'ang'a (Tribunal Case E1181 of 2024) [2026] KEBPRT 14 (KLR) (27 January 2026)
(Judgment)

Neutral citation:

[2026] KEBPRT 14 (KLR)

Republic of Kenya

In the Business Premises Rent Tribunal

Tribunal Case E1181 of 2024

N Wahome, Chair & Joyce Murigi, Member

January 27, 2026

Between

Caroline Mathiu

Tenant

and

James Ng'ang'a

Landlord

Judgment

1.This Judgement is on the Tenant’s reference dated the 30th October, 2024. In the reference, the Tenant complained against the landlord that;–“That I have been a tenant at the premises located in Uthiru for some time now faithfully and dutifully paying rent without fail, facts well known to the respondent herein. That the respondent without any colour of right and/or justification whatsoever served me with a notice to vacate from the premises contrary to the provisions of

section 4(2) of cap 301 laws of Kenya hence prompting me to file this application .That whilst I have no problem continuing paying my rent to the respondent with whom I have a valid and existing Landlord and Tenant relationship, the Respondent have started to interfere with the quiet enjoyment of the premises as a result of the impugned notice.”

2.The said and impugned notice is dated the 29th October, 2024 and was to take effect on the 31st December, 2024. The Notice simply stated that; -“You are hereby on this date 29/10/2024 notified to vacate our business premises by 31/12/2024”

3.We have perused the parties’ respective pleadings and attached documents and also the oral evidence rendered in court on the 11th December, 2025. On this particular date, the tenant testified and called two other witnesses namely Jane Wangari Maina, a Business lady within Uthiru Town and Samuel Ngururi Mbugua an employee at an agrovet shop within the same building.

4.The landlord on his part testified and closed his case. Further to his testimony, he produced Exhibit No 1 and 2 which are the notice to vacate which he had issued to the tenant and a bundle of photographs showing the extensions to the shop allegedly carried out by the Tenant without the permission of the landlord.

5.Having perused all the evidence on record by the parties, it is our view that this matter shall be resolved on the answer to the question of the legitimacy and validity of the termination notice dated the 29th October, 2024 or otherwise. We shall also decide on the issue of costs.

6.To decide the question of whether the termination notice dated the 29th October, 2024 is lawful, we shall put reliance on the landlord and tenant (shops, hotels and catering establishments) Act Cap 301 which we shall herein after refer to as “The Act”. Section 4(2) of the act provides that; -“A landlord who wishes to terminate a controlled tenancy, or to alter, to the detriment of the tenant, any term or condition in, or right or service enjoyed by the tenant under, such a tenancy, shall give notice in that behalf to the tenant in the prescribed form.”

7.On the other hand, section 4(4) of the act provides the following;-“No tenancy notice shall take effect until such date, not being less than two months after the receipt thereof by the receiving party, as shall be specified therein:”

8.Further Section 7(1) of the act provides that; -“Where under section 4 of this Act served a notice of termination of a controlled tenancy on the tenant, the grounds on which the landlord seeks to terminate such tenancy may be such of the following grounds as are stated in the aforesaid notice”

9.Of fundamental consideration in determining the lawfulness of a notice of termination or otherwise is the provisions of regulation 4(1) of the regulations to the act. It provides that; -“A notice under section 4(2) of the Act by a landlord shall be in form A in the schedule to these Regulations”

10.The above cited provisions are couched in mandatory terms and call for mandatory and strict compliance with the same. From a casual look at the notice of termination dated the 29th October, 2024, we doubt that it met any of the thresholds set by the Law. None compliance with any provision of the act would therefore render such a notice unlawful and of no legal consequence.

11.The court of appeal has eloquently spoken to this issue in the case of- Munaver N. Alibhai T/A T/A Diani Boutique V South Coast Fitness & Sports Centre Limited [1995] KECA 166 (KLR) where the court laid down the requirements of a valid termination notice as follows;“The Act lays down clearly and in detail, the procedure for the termination of a controlled tenancy. Section 4(1) of the Act states in very clear language that a controlled tenancy shall not terminate or be terminated, and no term or condition in, or right or service enjoyed by the tenant of, any such tenancy shall be altered, otherwise than in accordance with specified provisions of the Act. These provisions include the giving of a notice in the prescribed form. The notice shall not take effect earlier than 2 months from the date of receipt thereof by the tenant. The notice must also specify the grounds on which termination is sought. The prescribed notice in Form A also requires the landlord to ask the tenant to notify him in writing whether or not the tenant agrees to comply with the notice.”

12.We therefore determine that the notice of termination dated the 29th October, 2024 is unlawful and therefore of no legal consequence. The tenant’s tenancy is a protected tenancy and shall remain in force and the Tenant shall be allowed complete quiet possession of the premises.

13.On costs, we follow the conventional wisdom of section 12(1) K of the act and Section 27 of the civil procedure act and award costs to the tenant who is the successful party.

14.In the final analysis, we make the following orders; -a.That the notice of termination dated the 29th October,2024 is declared unlawful and of no legal consequence.b.That the Tenant’s reference dated the 30th October, 2024 is allowed in terms that the Tenant shall be allowed complete quiet possession of the demised premises.c.That the Tenant is awarded costs assessed at Kshs 10,000/- to be offset from the rent payable.Those are the orders of the court.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 27TH DAY OF JANUARY, 2026.NDEGWA WAHOME, MBS.PANEL CHAIRPERSON,BUSINESS PREMISES RENT TRIBUNAL.- AND-HON JOYCE MURIGI, MEMBER,BUSINESS PREMISES RENT TRIBUNAL.Delivered in the presence of;-Caroline Mathiu – The Tenant andMr. Mr Karoki for the Landlord

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Prepared on 29 October 2026 · Esheria