

KENYA / JUDGMENT

Mburu v Karoki [2025] KEBPRT 292 (KLR)

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COURT

Business Premises Rent Tribunal

BEFORE

CN Mugambi

CASE / FILE NUMBER

Tribunal Case E116 of 2025

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Mburu v Karoki (Tribunal Case E116 of 2025) [2025] KEBPRT 292 (KLR) (Civ) (20 May 2025)
(Ruling)

Neutral citation:

[2025] KEBPRT 292 (KLR)

Republic of Kenya

In the Business Premises Rent Tribunal

Civil

Tribunal Case E116 of 2025

CN Mugambi, Chair

May 20, 2025

Between

Jane Wangui Mburu

Applicant

and

Ephantus Karoki

Respondent

Ruling

1. The Landlord's Application dated 20. 1.2025 seeks the following orders;a.That the Tenant be evicted from L.R. No. 209/327/21 Juja Road Nairobi Countyb.That the Landlord be allowed to levy distress for rent,c.That the Landlord's appointed auctioneers be granted breaking orders into the premises; and finally,d.That the OCS, Pangani Police Station to provide security and ensure compliance with the orders sought.

The Landlord's depositions

2. The affidavit in support of the Application sworn by Ms. Jane Wangui Mburu may be summarized as follows;-a.That she is the registered owner of the suit property wherein the Tenant/Respondent runs a garage.b.That attempts to serve the Tenant have been thwarted by rowdy youth who hang around the premises.c.That the Tenant has failed to pay electricity bills as a consequence of which, Kenya Power & Lighting Company (KPLC) has disconnected power supply from the pole greatly inconveniencing other Tenants in the suit premises.d.That the Tenant is in rent arrears amounting to Kshs. 304,000/= being rent for the months of September 2024 to January 2025 and a non-paid electricity bill.e.That demand letters for the payment of rent have been sent to the Tenant.f.That the Tenant's continued stay at the suit premises amounts to trespass and illegal possession of the premises.

The Tenant's depositions

3. The replying affidavit sworn by the Tenant M/s Ephantus Kinyua Karoki may be summarized as follows;-a.That the Tenant does not run a garage on the Applicant's land as he runs his garage on the empty space between the Applicant's land and the Nairobi County Government's free space next to the main road.b.That the Respondent has been operating in the "area" for the last twenty (20) years after the Landlord/Applicant's husband allowed him to construct a structure as a garage which does not require electricity.c.That the Respondent does not draw his electric power supply from the Applicant's house and he is therefore not in any arrears of power bills.d.That the Tenant denies owing rent arrears in the sum of Kshs. 304,000/= but admits to paying the deceased husband of the Applicant Kshs. 6,000/= per month as rent.e.That to date, the Tenant pays the rent of Kshs. 14,000/= per month and he is not in any rent arrears.

Analysis and determination

4. The only issue that arises for determination in this Application is whether the Landlord is entitled to the reliefs sought in her Application.
5. The Tenant/Respondent has in his affidavit denied that he operates his garage business out of the Applicant's premises. Without more, this would mean that the Tenant/Respondent is not a Tenant of the Applicant.But the Tenant has gone ahead to depose that he used to pay the deceased husband of the Applicant Kshs. 6,000/= per month as rent and he currently pays the rent of Kshs. 14,000/= per month and further that he is not in any rent arrears.

6. If it is true that the Tenant/Respondent operates from space owned by the County Government of Nairobi and not the Applicant's premises, why then would the Respondent pay a monthly rent of Kshs. 14,000/= to the Applicant? It can only be because the Respondent is the Tenant of the Applicant and I am prepared to find and do find that the Tenant/Respondent is the Tenant of the Applicant on the suit premises.
7. The Applicant who seeks to have the Tenant evicted has not demonstrated that she has complied with the provisions of Section 4 of Cap 301 as far as the issuance of the statutory notice to terminate tenancy is concerned. This omission is fatal to the Applicant's prayer for eviction and cannot be granted.
8. Although the Landlord/Applicant has made a claim for the payment of rent arrears in the sum of Kshs. 304,000/=, the Landlord has not annexed any rent statements of accounts in support of this claim. The Tenant has denied owing the Landlord any rent in arrears. In these circumstances, I would have expected the Landlord to have taken the extra step of, more specifically proving her claim by way of a further affidavit. As far as the pleadings go, it is now the word of the Applicant against that of the Tenant and in the circumstances, this prayer can only be dealt with during a full hearing.
9. The Tenant has deposed that he does not use and does not require electricity to carry out his business. The Landlord has not demonstrated how the Tenant utilizes the electricity and to what extent. The Landlord having stated that all the Tenants in the suit premises are serviced by one electricity meter, I am not able to make any decision as to the extent of the consumption by the Tenant herein, if any.
10. In the circumstances, I do not find any merits in the Landlord's Application and the same is hereby dismissed with costs to the Tenant.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 20TH DAY OF MAY, 2025. HON. CYPRIAN MUGAMBICHAIRPERSONBUSINESS PREMISES RENT TRIBUNALDelivered in the presence of Mr. Munialo for the Landlord and in the absence of this Tenant.Court: Reference will now be heard on 10. 7.2025. Hearing Notice to issue

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Prepared on 28 October 2026 · Esheria