

REPUBLIC OF KENYA

IN THE BUSINESS PREMISES RENT TRIBUNAL

TRIBUNAL CASE NO E1151 OF 2025

ANTONY MUNGAI

NJOGU.....APPLICANT/TENANT

VERSUS

JOHN GICHUHI

MUNGAI.....RESPONDENT/LANDLORD

RULING

1. This ruling concerns the Reference and Notice of Motion filed by the Applicant, Antony Mungai Njogu, arising from a dispute with the Respondent, John Gichuhi Mungai, relating to commercial premises situate on land parcels Kajiado/Kaputiei-North/25170 and Kajiado/Kaputiei-North/24623 & 24643.
2. The Tribunal has carefully examined the pleadings, affidavits, annexures, the full record before it, and the submissions by the parties. The Respondent raised a Preliminary Objection challenging the Tribunal's jurisdiction on the grounds that the tenancy is not a controlled tenancy within the meaning of Cap 301.
3. The undisputed factual background is that the Applicant and Respondent entered into a written lease agreement executed on 4th August 2018 for a fixed term of seven years. The said lease is duly signed and witnessed. The Applicant occupied the premises throughout the term until expiry on 4th August 2025, when the lease came to an end by effluxion of time. Renewal under Clause

4(viii) required mutual written agreement, which was not established.

4. The Applicant contends that he continued paying rent after expiry and that the Respondent frustrated renewal discussions. He relies on a letter dated 22nd May 2025. The Respondent disputes service of that letter and states that no renewal was ever agreed upon. The Applicant also alleges harassment and unlawful rent increment.
5. The Respondent raised a Notice of Preliminary Objection dated 21st October 2025 arguing that this Tribunal lacks jurisdiction because the lease was in writing and exceeded five years in duration, thereby excluding it from the definition of a controlled tenancy under section 2(1) of Cap 301.
6. The Respondent's advocates, in submissions dated 4th November 2025, emphasized that the seven-year written lease removed the tenancy from the ambit of Cap 301. They argued that post-expiry conduct, such as rent payment or negotiations cannot confer jurisdiction and relied on decisions of the Environment and Land Court addressing similar circumstances.
7. For clarity, the Tribunal seeks reliance on the binding Court of Appeal decision in *Kasturi Limited v Nyeri Wholesalers Ltd* [2014] eKLR which squarely addresses the jurisdictional issue and remains binding authority on the scope of controlled tenancies under Cap 301.
8. Upon reviewing the seven-year lease executed on 4th August 2018, the Tribunal notes that its duration alone places it outside the statutory framework of controlled tenancies as defined under

section 2(1) of Cap 301. The lease was for a period exceeding five years and contained no clause permitting termination otherwise than for breach within five years.

9. Consequently, it did not constitute a controlled tenancy at inception. Following the expiry of the lease on 4th August 2025, the tenancy ended by effluxion of time. The Applicant's continued occupation or rent payment of one month thereafter without the landlord's consent could not revive or create a controlled tenancy under section 60 of the Land Act, 2012.
10. The Court of Appeal in *Kasturi Limited v Nyeri Wholesalers Ltd* affirmed that jurisdiction under Cap 301 cannot be conferred by conduct, equitable considerations, or post-expiry events. Applying this reasoning, the Tribunal concludes that no jurisdiction lies to entertain the present dispute.
11. The Tribunal has considered the Applicant's allegations of harassment and unlawful rent increment. However, such allegations presuppose the existence of a controlled tenancy. Where jurisdiction is absent, the Tribunal cannot adjudicate on such matters. These issues fall, if at all, within the jurisdiction of other competent courts.
12. The Tribunal therefore finds that the tenancy herein was not a controlled tenancy, that it expired by effluxion of time, and that no mutually executed renewal capable of invoking Cap 301 has been demonstrated. The Tribunal thus lacks jurisdiction.

13. The Preliminary Objection dated 21st October 2025 is upheld. The Reference and Notice of Motion are struck out for want of jurisdiction.

14. The Tenant shall meet the costs of the reference assessed at Kshs 30,000/= awarded to the Landlord/Respondent.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 5TH DAY OF DECEMBER 2025.

**HON. GAKUHI CHEGE
PANEL CHAIRPERSON
BUSINESS PREMISES RENT TRIBUNAL**

**HON. JOYCE AKINYI OSODO
PANEL MEMBER**

IN THE PRESENCE OF: -

Kamau for the tenant

Ms Njeri holding brief for solanka for the Respondent