Expired Car Wash Lease Submissions on Res Judicata and Waiver Proof

Educational sample 295 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MOMBASA

ENVIRONMENT AND LAND CASE NO [reference]

[TENANT PLAINTIFF AND APPLICANT] v [LANDLORD DEFENDANT AND RESPONDENT]

WRITTEN SUBMISSIONS

1. The Respondent asks the Court to examine the certified Tribunal ruling before deciding the new injunction. The compared proceedings, parties, relief and issues are set out at [record pages].

2. Section 7 of the Civil Procedure Act requires examination of the matters actually determined by a competent forum. The Applicant must identify a lawful basis for revisiting them, rather than relying on a new case number and substantially repeated prayers.

3. The fixed lease term and any genuine extension are proved by [documents]. An expired lease cannot be treated as a current contractual entitlement to remain merely because rent is disputed. The proper possession and accounting routes must be distinguished.

4. The asserted waiver requires evidence of agreement and terms. Bayusuf [2025] KEELC 6191, paragraphs 13–17, found that business interruption and an unsupported waiver account did not establish the reduction or defeat the earlier ruling.

5. The injunction tests are applied to the actual right, proof of injury and enforcement documents. A general allegation of inaccurate rent is not sufficient where the claimed adjustment lacks evidence and the same enforcement question has already been decided.

6. The Respondent seeks the disposition appropriate to the proved procedural bar and merits, with costs. These submissions do not introduce a new lease, receipt or notice, and do not claim the source case authorises unlawful enforcement in another matter.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A car-wash tenant sought an injunction against distress for claimed rent arrears of Kshs 3,840,000 plus Kshs 960,000 charges. He alleged a rent waiver after county demolition. The landlord relied on a monthly rent of Kshs 160,000, expiry of the lease in June 2024 and an earlier Business Premises Rent Tribunal ruling.

The Court found no exhibited waiver or proved basis for the claimed reduction. It held the lease had expired and the issues had already been litigated before the Tribunal. The motion and entire suit were struck out with costs to the landlord.

This is an unsuccessful fresh injunction, not authority to repeat a finally determined reference. Distress, possession, disputed rent accounting and a challenge to a Tribunal order are distinct procedural issues. Obtain the prior record and assess res judicata, limitation, appeal or review route and actual jurisdiction. Do not fabricate a rent waiver or assume business interruption automatically cancels rent.

[2025] KEELC 6191 (KLR) - 25 September 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/bayusuf-v-nyale-2025-keelc-6191-klr

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The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.