# Controlled Shop Tenancy Memorandum of Appeal

Educational sample 336 | 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 APPEAL NO [reference]

[LANDLORD APPELLANT] v [TENANT RESPONDENT]

MEMORANDUM OF APPEAL

1. The Appellant challenges the BPRT ruling and order dated [actual date] in [reference]. The certified order, tenancy documents and admitted record are [pages]. The historical appeal arose from the 30 August 2021 order; this specimen uses the true reference of the proposed matter.

2. The Tribunal erred, as alleged, in determining continued occupation without adequately resolving the actual tenancy terms, the asserted termination procedure and the admitted possession evidence. The pleaded ground must confront sections 4, 6 and 7 of Cap 301, not assume that physical eviction itself terminates a controlled tenancy lawfully.

3. The Tribunal erred, as alleged, in its treatment of the identified parallel proceedings. The ground specifies the exact earlier decision and issues said to have been finally determined. An unresolved Kwale suit cannot merely be described as a final merits judgment.

4. The Tribunal erred, as alleged, in evaluating the evidence and reasons for reinstatement and interim occupation. The actual rental arrears, notice, current occupant and service record are [pages]. A director death is disclosed without asserting that a company automatically ceased to exist.

5. The Appellant seeks the precise variation or setting aside justified by the record, and appropriate costs. Appeal permission, statutory time limit, service and record requirements are [particulars]. The source appeal succeeded only in part; the metadata dismissal label is not the operative order.

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 the exact lower-court judgment or ruling, operative decree, parties, concise grounds and requested disposition. Use the procedure for this particular appellate court: an ELRC appeal and a High Court or ELC first appeal are not Court of Appeal proceedings. Check limitation, any necessary leave or extension, record, fees, service and directions. Filing an appeal is not an automatic stay.

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 landlord appealed the Mombasa BPRT reinstatement and occupation orders concerning commercial shops in Diani. The record discussed a short written tenancy, disputed arrears and prior eviction, another Kwale suit and the death of a director. The appeal was heard in Mombasa.

Despite a metadata dismissal label and contradictory sentence in paragraph 49, paragraph 47 and operative order 49(a) partially allow the appeal on the listed tenancy grounds and order 49(c) awards appeal costs to the appellant. The certified decree is needed before acting on the ambiguous substitution wording.

Cap 301 controlled-tenancy termination procedure is distinct from self-help eviction. An ongoing suit is not automatically res judicata; corporate-director death does not automatically establish abatement. The text gives differing tenancy and eviction descriptions. The specimens identify the dispute instead of presenting one inconsistent date as established.

[2025] KEELC 289 (KLR) - 31 January 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/ess-pee-ess-investment-v-deegisat-tv-service-limited-applying-as-legal-administrators-of-the-estate-of-the-late-oloo-agoro-oloo-2025-keelc-289-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/ess-pee-ess-investment-v-deegisat-tv-service-limited-applying-as-legal-administrators-of-the-estate-of-the-late-oloo-agoro-oloo-2025-keelc-289-klr

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.