



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**E&L 100 OF 2014**

**BENARD ONKOBA T/A**

**BETICO AUCTIONEERS..... PLAINTIFFS**

**VS**

**JOY BEAUTY WEAR L.T.D.....DEFENDANT**

***(Application seeking orders to re-open rented premises; no response from landlord on the application; no evidence upon which the locking up of the premises may be justified; application allowed)***

**RULING**

In this suit, the plaintiff has contended that the defendant has unfairly locked up his premises. The defendant is the landlord of the plaintiff. Simultaneously with the suit, the plaintiff filed an application for mandatory injunction to compel the defendant to open up the premises.

When the matter first came before me on 27 March 2014, I only certified the application as urgent and did not give any interim orders. I directed that the application be served and be heard on 31 March 2014. The application was duly served but on the appointed date only the plaintiff showed up.

I have perused the pleadings and the application. It is the case of the plaintiff that he has dutifully been paying rent yet the defendant locked up the premises. The defendant has not responded and the only material before me is that of the plaintiff. I therefore have no evidence in which the defendant's action may be justified.

I will grant the plaintiff the benefit of doubt and issue injunctive orders directing the defendant to open up the premises and allow the plaintiff access to the subject property pending hearing and determination of this suit. The orders will remain in force for as long as the plaintiff continues to pay the rent of Kshs. 30,000/= on or before the 5th day of every subsequent month, which rent, Mr. Momanyi stated from the bar, is what the plaintiff pays per month.

It is so ordered.

**DATED AND DELIVERED AT ELDORET THIS 1ST DAY OF APRIL 2014**

**JUSTICE MUNYAO SILA**

**ENVIRONMENT AND LAND COURT AT ELDORET**

***Delivered in the presence of:***

***Mr. E.M. Momanyi for plaintiff/applicant***

***N/A for defendant***