



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**H.C.CIVIL CASE NO.1658 OF 1998**

**AHMED SULEMAN SUMAR ..... PLAINTIFF**

**VERSUS**

**ALI IBRAHIM ROBO ..... DEFENDANT**

**R U L I N G**

This application by way of notice of motion brought under O.XXXV Rule I. O.VI Rule 13(1) and O.XII Rule 6 of the Civil Procedure Rules seeks orders to strike out the defendant's defence and enter summary Judgment on admission.

The defendant is a protected tenant and under the Provisions of Section 4(2) of the Landlord and Tenant (Shops, Hotel, and Catering Establishments) Act Cap 301 tenancy can only be terminated after the tenant has been served with the termination Notice.

The applicant submits that he has served a termination notice to the Respondent under section 4 (2) of the Act and the Respondent having failed to make a reference to the Tribunal under section 6(1) of the same the tenancy was terminated with effect from 20/4/1998 the date indicated in the Notice

This is a mandatory requirement and the Respondent having denied in his defence having received the notice the suit ought to proceed to full hearing so that prove of service can be established.

For the above reason I disallow this application ad order that costs be costs in the suit.

Order accordingly.

Dated and delivered at Nairobi this 21st September, 2000

**J.L.A OSIEMO**

**JUDGE**