

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(EWURA)

COMPLAINT NUMBER EWURA/33/1/331

BETWEEN

MR. JOE MPANGALA COMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY

COMPANY LIMITED RESPONDENT

AWARD

**(Made by the Board of Directors of EWURA at its 160th Extra Ordinary
Meeting held at Dar es Salaam on this 29th day of July 2016)**

1.0 Background Information

On 2nd January 2015, the Energy and Water Utilities Regulatory Authority ("the Authority") received a complaint from Mr. Joe Mpangala ("the Complainant") against the Tanzania Electric Supply Company Limited (TANESCO) ("the Respondent") complaining about the loss suffered as a result of the damage to his electrical appliances allegedly caused by High Voltage. The Complainant claims that sufficient measures were taken on his part to ensure safety of his electrical appliances and further claims that High Voltage was the cause for the damage to his electrical appliances. The Complainant alleges that while at site, after the incident, the

Respondent's officers advised him orally that he should write to their Regional Manager in Tegeta and list all the items that were destroyed and indicate the amount that he has suffered as a result of the accident for possible compensation. Consequently, the Complainant claims that the Respondent compensate him for the loss suffered amounting to TZS 3,000,000.00, payment for damages for emotional distress amounting to TZS 1,000,000.00, costs of the complaint and any other reliefs as the Authority thinks fit to grant.

Upon receipt of the complaint, the Authority, on 30th January 2015, wrote to the Respondent instructing them to present their reply to the complaint in terms of Rule 5 (1) of the Energy and Water Utilities Regulatory Authority (Consumer Complaints Settlement Procedure) Rules, GN No. 10/2013. The Respondent failed to submit their defence as required by law and hence the matter was forwarded to the Division of the Authority for an *ex-parte* hearing.

2.0 Hearing Stage

Hearing of the matter commenced on 28th January 2016, and the Complainant was represented by Mr. Luoga William, learned advocate. During hearing the following issues were framed for determination:

1. whether High Voltage resulting from the Respondent's supply system was the cause for burning of the Complainant's appliances;
2. whether the Complainant took any measures to prevent his electrical appliances from electric faults; and
3. what reliefs the parties are entitled to?

The hearing of the matter took place on 28th January 2016, 19th February 2016, 10th May 2016 and 17th May 2016 and thereafter the Complainant was

ordered to submit his written closing submissions on or before 31st May 2016. We are very thankful for the submissions made by the Complainant.

During the hearing, the Complainant, Mr. Joe Mpangala stood as the first witness (CW1), Ms Scholastica John Matto the Complainant's wife stood as the second witness (CW2) and Ms Eligia Lovell Mwanri the Complainant's former landlord stood as the third witness (CW3). The Complainant tendered various documents as exhibits.

3.0 **Decision**

In arriving at our decision, we have considered the applicable laws which include the EWURA Act, Cap. 414, the Electricity Act, Cap. 131 ("the Act") and the Energy and Water Utilities Regulatory Authority (Consumer Complaints Settlement Procedure) Rules, GN No. 10/2013. We have also considered oral testimonies of witnesses together with the exhibits, closing submission and good electricity industry practices. Our decisions on the issues raised during hearing of the matter are as follows:

Issue No. 1: Whether High Voltage resulting from the Respondent's supply system was the cause for the burning of the Complainant's appliances

In this matter, no party is disputing the fact that the Complainant's electrical appliances were damaged. The Complainant reported the incident to the Respondent and was given TB Number 60258. Furthermore, the Respondent's letter of 18th April 2013 admitted as Exhibit "C4" confirms that the Respondent had acknowledged the occurrence of the incident. What is at issue is whether the cause for the damage of the said appliances was due to high voltage resulting from the Respondent's supply system. Electrical appliances alleged to have been affected by the suspected high voltage include one fridge, one television, one DVD, one decoder, two radios, one fan, one iron and one electric heater.

CW1 testified that he had taken sufficient measures to ensure that his electrical appliances were safe. CW1 testified that all his electrical appliances were secured by a single stabilizer. The Complainant claims that he had bought the stabilizer before moving into the house since the Landlord had informed him that the area was prone to power problems. CW1 testified that the high voltage experienced on the fateful day could not be protected by the stabilizer. The Complainant testified that a large area in his neighborhood was affected by power fluctuations.

Furthermore, CW1 testified that the Respondent's officers while at the site investigating the matter, advised him orally that he should write to their Regional Manager in Tegeta and list all damaged items and indicate the loss suffered, which move he translated to amount to admission on part of the Respondent. Responding to the question from a member of the Division who wanted to know why they think the source of damage is high voltage, CW1 testified that the Respondent's officers had informed him that the transformer in that vicinity was faulty and needed to be changed. Asked whether they have proof for reporting the matter to the Respondent, CW1 testified that he did not keep TB numbers he received from the Respondent whenever he reported power problems in their area.

CW2 testified that on the fateful night, she heard a sound coming from inside the house and saw lights going off. CW2 testified that upon getting inside the house she could smell smoke and realized that all their electrical appliances were burnt. CW2 testified that later on the Respondent's officers came to investigate the matter and concluded that the appliances were burnt and admitted that they were responsible for the accident. CW2 testified that all electrical appliances were turned on at the time when the incident occurred. CW2 testified that two of their neighbours had similar complaints and further testified that transformer was the cause of the problem. CW2 testified that they received TB number for only this incident. CW2 testified that there were persistent power interruptions and transformer problems in their area despite the Respondent's efforts trying

to address the problem. CW3 testified that she had known the Complainant since October 2010 when he started renting her premises. CW3 testified that being the Landlord, the Complainant had reported the incident to her. CW3 testified that their area experienced frequent power problems and that the transformer was overwhelmed as many people were connected to it.

We have examined all the testimonies and evidences tendered, together with the closing written submission by the Complainant. It is unfortunate that the evidence considered in this complaint was one sided due to the fact that the Respondent lost their right to be heard for failure to submit their defence as required by law. The aforesaid notwithstanding, the standard of proof required to prove *ex-parte* cases remains the same i.e. on the balance of probabilities. In this case the onus of proof lies on the Complainant to prove that the Respondent was indeed liable for the damage of his electrical appliances due to high voltage in their system. CW1 stated that high voltage was the cause for burning of his electrical appliances. Under normal circumstances, the effects of high voltage in the system are likely to be experienced by more than one person receiving power from the same supply source.

While both "CW1" and "CW2" in their oral testimonies allege that their neighbours were affected in the same way, their allegations were not supported by any cogent evidence. One would expect the Complainant to bring, at least as witnesses, his affected neighbours. Secondly, although all the three witnesses claim that their area has been experiencing frequent power problems and that those problems were being reported to the Respondent, none of them has produced any piece of evidence to prove such assertion. Furthermore, it is our considered opinion that the Complainant has failed to link the alleged problems in the transformer with the alleged high voltage that damaged his appliances. CW3 in her oral testimony alleged that the transformer was overwhelmed, but it was not

made clear how the overwhelming of the transformer could lead to high voltage.

Furthermore, from the evidence of "CW1" and "CW2" we have observed some weaknesses on part the Complainant who relied on a single stabilizer for protection of most of his electrical appliances contrary to Good Electricity Industry Practices. Even though we have not taken much time in analyzing this weakness on part of the Complainant, but it provide some avenues one could try to establish the source for the burning of the appliances.

Based on the foregoing and in the final analysis and considering all the circumstances and the testimonies given, we are unable to establish that on that fateful day there was high voltage in the Respondent's system in the vicinity of the Complainant's house and that such high voltage was responsible for the burning of the Complainant's electrical appliances. In view of the above, we are satisfied that the Complainant has failed to discharge the burden of proof, on balance of probabilities, in proving that, high voltage resulting from the Respondent's supply system was responsible to burning incident.

Issue No. 2: whether the Complainant took any measures to prevent his electrical appliances from power faults; and

Pursuant to Clause 4 of the Power Supply Agreement between the Complainant and the Respondent and Item D Paragraph 2(g) of the Customer Service Charter, the Complainant is responsible for protection of the internal electrical system and any electrical appliances connected to power after the meter. In this case, while the Complainant alleges that sufficient measures were taken to protect his electrical appliances, the evidence adduced to support this assertion does not suggest so. The move by the Complainant to connect a fridge, television set, DVD player, decoder, two radios, a fan, an iron box and electric heater all in one

stabilizer amounts to none other than acting irresponsibly on his part. Based on the foregoing, it is our considered opinion that the Complainant did not take sufficient measures to prevent his electrical appliances from electrical faults.

Issue No. 3: What reliefs are the parties entitled to?

Based on the foregoing and in the final analysis we have decided that the complaint be dismissed with no orders as to the costs.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 29th day of July 2016.



Eng. Mutaekulwa Mutegeki
ACTING DIRECTOR GENERAL