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**ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

COMPLAINT NUMBER:GA. 71/135/128

MASHAVU JUMA MABULACOMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY LIMITED..... RESPONDENT

AWARD

*(Made by the Board of Directors of EWURA at its 133rd Ordinary Meeting held at
Dar es Salaam on the 30th day of October, 2018*

1.0 Background Information:

On 19th June, 2018 Mrs. Mashavu Juma Mabula ("the Complainant") a resident of Katubuka Area along Kagashe Road within Kigoma-Ujiji Municipality in Kigoma Region filed a complaint at the Energy and Water Utilities Regulatory Authority ("the Authority") against the Tanzania Electric Supply Company Limited (TANESCO) ("the Respondent") claiming compensation for her house and house hold tool destroyed by fire alleged to have been caused by an electrical fault.

The Complainant claims for payment of TZS 5,785,000,00 being compensation for the damage to her one bedroom house and house hold tools following the fire incident which occurred on 27th November, 2017 at the said house which was rented to one Paul Lameck.

The Complainant states that on the 27th November, 2017 at around 1.00AM she was awakened by noises of fire and upon getting on the scene she

found their one bed room house on fire. She further states that the person residing in the house one Paul Lameck told her that he was awakened by the bursting of a light bulb and found fire erupting from the main switch and spreading to the curtains on the exit door. The Complainant further explains that she called the Respondent immediately who promised to send their people but no one came until next morning. The Complainant claims that she called again that morning at around 7AM because the fire was still on. The Respondent promised to come but they did not. At around 11.00AM the Complainant claims she sent one Paul Lameck to the Respondent's Office, again they promised to come and then they came at around 1.00PM. The Complainant continues to state that on arrival the Respondent's staff disconnected power from the pole, took some photos and interviewed them. They also advised her to make a formal claim to the Respondent's office which she did. The Complainant claims that she wrote a letter on the 2nd January, 2018 claiming for TZS 5,875,000.00 as compensation for the damage to the house itself and value of destroyed house hold properties. She concludes by stating that after waiting for several months the Respondent replied in 5th June, 2018 and denied any liability on the ground that the alleged fire started from inside the house, the Respondent's infrastructure such as the meter and tail wire were not affected, and that no Complaint was reported from other customers in the same line. The Complainant being dissatisfied with the verdict filed this complaint to the Authority for determination.

Upon receipt of the Complaint, the Authority ordered the Respondent to file a reply/defence to the Complainant's claims via the summons to file defence issued on 20th June, 2018. The Respondent replied on 6th July, 2018 and denied any liability. The Respondent further stated that the fire that destroyed the Complainant's premises started from inside the premises. The Respondent further stated that after their investigation it was discovered that the electrical meter was safe and intact and that the Complainant currently receives electricity supply services via the same line that supplied many other customers who none of them were affected on that fateful day.

Efforts to resolve the dispute through mediation did not succeed thus, the matter was referred to the Division of the Authority for hearing.

2.0 Hearing Stage:

During the hearing which was conducted on 18th and 19th September, 2018 the Complainant appeared in person whereas the Respondent was represented by learned advocate Nobert Bedder. The following issues were framed for determination:

- 2.1 Whether the Respondent was responsible in negligence for the fire which destroyed the Complainant's properties;
- 2.2 whether the Respondent is liable for loss suffered by the Complainant; and
- 2.3 what reliefs if any, or remedies are the parties entitled to.

At the hearing, the Complainant testified as CW1 and one Paul Lameck CW2, the tenant who resided in the premises in question. CW1 tendered exhibit "C1" a letter dated 2nd January, 2018 to the Respondent's Regional Manager claiming for compensation and "C2" a reply by the Respondent to the Complainant's letter. The Respondent on the other hand had one witness RW1 one Sembua M Kimbosho, the Mains Supervisor who tendered an initial investigation report of the fire incident which was admitted as exhibit R1.

3.0 The 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 EWURA (Complaints Handling Procedure) Rules, GN No. 10/2013. We have also considered the oral testimony of the witnesses together with documentary evidence tendered during the proceedings. Our decision on the issues is as follows:

3.1 Whether the Respondent was responsible in negligence for the fire which destroyed the Complainant's properties;

In addressing this issue we have considered the testimonies of all the witnesses as follows. CW1 who is the landlord testified to the effect that she was awakened by noises of fire and when she came to the scene she found CW2 and other people struggling to put out the fire. The rest relating to how the fire started and where it started were told to her by CW2. Her testimony therefore is not very much helpful in determining the cause of fire. On the other hand CW2 testified that he went to sleep and left the seating room light on as usual, but after mid night he heard an explosion which he later found out it was a bulb burst. He woke up and rushed to the seating room only to find that it was dark save for the flash light of sparks from the main switch and fire which had caught on the curtains of the main door. According to his testimony the main switch is close to the main door and therefore it was easy for the curtains to catch fire from the sparking main switch and circuit breaker.

The witness CW2 went further to allege that the busting of the bulb was an indication that there was over voltage. When asked whether there was anybody else in the neighbourhood who experienced any similar problems on the same day, CW2 said that one neighbour complained that she had no electricity but when they went there to observe they realized her circuit breaker had just tripped and there they turned it on and everything was fine. CW2 was further asked why his circuit breaker did not trip as well and he had no one clear answer except that it depends on the capacity of the circuit breaker.

In response, the Respondent's witness RW testified that on arrival at the scene he took the initiative to interview neighbours to see if any of them experienced unusual voltage but there was none. He further said that had there been over voltage, the Respondent's infrastructure would have been the first to be affected and also the effect would have been felt widely by many other customers connected on the same line. On the contrary even

within the same compound it was this particular one bed room apartment which was affected, and the rest of the house was just fine. In his report which was admitted as exhibit R1 he indicated that the cause of fire outbreak was "*melting of Circuit Breaker*" when asked what did that mean he said there was loose connection at the circuit breaker terminals which caused overheating and ultimately caused fire outbreak. In his opinion this fault caused the customer's protection system to fail and therefore caused the fire to erupt. RW concluded by saying that such a fault is not attributable to the Respondent.

We have observed that both parties agree that the fire erupted from inside the house. The testimony by CW2 that fire started at the main switch and circuit breaker box is also supported by RW's testimony and his report R1 which states that circuit breaker melted due to overheating caused by loose connection hence causing fire. The second part is whether there was over voltage as alleged by CW2 a fact which if proved would bring the Respondent into the picture. We have considered the circumstances and testimonies by both sides and do concur with the Respondent's testimony that for there to have been over voltage, the transformer supplying electricity to a network of clients must have had a fault. In this case there was no fault at all with the transformer which also explains why there were no complaints from other customers connected in the same line.

We have further considered the fact that the Respondent's infrastructure such as the tail wire, and the meter were in good condition and in fact the same meter continues to provide service to the Complainant after the fire incident as also indicated in the site visit report. These facts which were admitted by the Complainant witnesses and verified on site visit are prima facie evidence that there was no electrical surge problems as alleged by the Complainant's side. We are in agreement with the Respondent's witness testimony that for electricity to have affected the Complainant the effects must have started from the Respondent's own infrastructure. Based on the foregoing we are of the view that the Respondent is not responsible for the cause of the fire as the same started inside the premises which is beyond the Respondent's liability, the Respondent's infrastructure was not

affected and continues to provide service to the Complainant, and that no evidence of any other customer to have been affected by electrical supply on the material day.

3.2 whether the Respondent is liable for loss suffered by the Complainant;

The first issue has been answered in the negative, which means the Respondent was not responsible for the cause of the fire which destroyed the Complainant's house and house hold items belonging to the tenant. However, in determining whether the Respondent is responsible for the loss suffered by the Complainant we went far beyond the first issue. We considered the role of the Respondent in mitigating loss to the Complainant during and after the fire incident.

It was alleged by both Complainant Witnesses that the Respondent was called to the scene several times from 1 AM when the fire incident started but did not show up until morning. The Complainant testified that she sent CW2 to their office that morning around 11AM but yet they did not come until 1PM is when they showed up. The Complainant's argument is that had the Respondent responded in time and disconnected electricity, it could have made it easier for rescue and firefighting efforts. On cross examination the Complainant witnesses were asked why they did not call Fire Brigade or Police and replied that they believed since the fire was an electrical fire the first people responsible was the Respondent. The Respondent's side of story as told by RW was that it is true they were called to the scene that night but information was mishandled and did not reach the people responsible. In that regard disciplinary measures were taken against the person who was on duty that day. But also RW responded on re-examination that the Respondent is not a responsible organ for rescue and firefighting. RW insisted that the Complainant ought to have called the fire brigade which is responsible for rescue and firefighting. They should also have called the police for security issues. The witness continued that even if the Respondent had responded and disconnected electricity to the premises, they could have done nothing to put off the blaze. On

Complainant the sum of TZS. 1,446,250.00 being compensation for loss suffered by the Complainant as a result of the Respondent's contributory negligence. Each party shall bear its own cost of the complaint.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) at Dar es Salaam this 30th day of October, 2018.



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NZINYANGWA E. MCHANY
DIRECTOR GENERAL