

BETWEEN: KERRY TOM NIKARA  
CLAIMANT

AND: MELANIE JOHN AND JEFFREY PHILIMON  
DEFENDANTS

*Date of Hearing: Wednesday 23<sup>rd</sup> April, 2025*  
*Date of Judgement: Wednesday 23<sup>rd</sup> April, 2025*  
*Venue: Efate Island Court – Court-Room, Joint-Court, Port-Vila*  
*Before: Justice F. Thomas (Presiding Justice)*  
*Justice L. Sakita (Member)*  
*Justice T. Shem Arlie (Member)*  
*Island Court Clerk: Alida Alain*  
*In Attendance: All parties appeared in person*

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## COURT JUDGMENT

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An application has been filed by **Kerry Tom Nikara** who is the claimant before this court in pursuant to Rule 1(2) of the Island Court Procedure Rules of 2005.

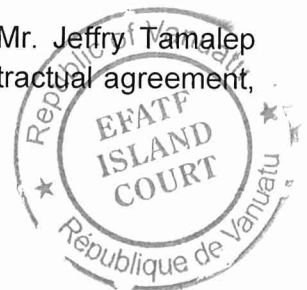
Kerry Tom Nikara, from Mele Village, Port Vila, Efate, is suing Melanie John and Jeffery Philimon for an outstanding debt they owe for renting his room. The defendants have been renting the room since 2023, with payments made in 2024 and 2025. The debt has grown, with unpaid rent in 2025. The claimant has reduced the claim from 58,000 Vatu to 50,000 Vatu to allow the Efate Island Court to proceed. The defendants have failed to settle the balance, causing financial stress for the claimant and his wife. The claimant requests the court to order the defendants to pay the full outstanding debt by the end of this April 2025 and to vacate the rental room as another tenant is ready to move in.

Jeffry Tamalep Pakoa filed a strike out claim against Melanie John and Jeffery Philemon; the defendants, alleging misidentification, lack of contractual agreement, unlawful threats, and exaggerated claims. He respectfully requests the court to dismiss the case, citing a lack of good faith and the initial claim amount exceeding the court's jurisdictional limit. The statement was signed and filed by Pakoa on 22nd April 2025.

Having heard the parties and reviewed the documentation submitted, the Court finds as follows:

**1. On the Application to Strike Out filed by the Defendant Jeffry Tamalep Pakoa:**

- a) The Court considered the Application to Strike Out filed by Mr. Jeffry Tamalep Pakoa on the grounds of misidentification, lack of a direct contractual agreement, and misjoinder.



- b) The Court correctly applied Rule 3.2(2)(a) of the Civil Procedure Rules No. 48 of 2002 by concluding that Jeffry Tamalep Pakoa (wrongly named as Jeffrey Philimon) was not a necessary party to resolve the matter, as:
1. He had no direct contractual obligation to the Claimant,
  2. The agreement was only with Melanie John, and
  3. The debt claim related strictly to rental obligations assumed by her.

The Court finds that the Defendant Jeffry Tamalep Pakoa was misjoined to the proceedings, as his presence is not necessary to enable the Court to make a fair and effective decision, accordingly, he is struck out as a party to this proceeding

## 2. On the Debt Claim against Melanie John:

- a) The Claimant provided credible testimony showing that Ms. Melanie John entered into a rental agreement for a room owned by the Claimant.
- b) The Court finds that Ms. John, despite being unemployed, had entered the agreement knowingly and allowed her belongings to remain on the premises, signifying continued occupation and liability for rent.
- c) The Defendant Ms. John admitted partial payments and made promises to repay, which remain unfulfilled. The outstanding balance at the time of the hearing stood at VT 50,000, which the Claimant agreed to as the reduced claim to fall within the Island Court's jurisdiction.

## 3. Findings and Orders:

- a) The Court finds the debt of VT 50,000 proven on the balance of probabilities and holds Ms. Melanie John solely responsible for the outstanding rent.
- b) The continued occupation of the rental room by Ms. John's belongings constitutes ongoing tenancy and liability.
- c) The Court acknowledges the financial hardship suffered by the Claimant due to the non-payment of rent.

## COURT ORDERS

1. The application to strike out the Claim filed by Jeffry Tamalep Pakoa is not granted. He is hereby removed as a party to this proceeding.
2. Defendant Melanie John is ordered to:
  - o Pay the full amount of VT 50,000 to the Efate Island Court Office by no later than 30 April 2025;
  - o Remove all belongings from the rental premises by 24 April 2025, to enable the Claimant to clean and re-lease the property.
3. Failure to comply with these orders shall entitle the Claimant to apply for enforcement before the Supervising Magistrate of the Efate Island Court.



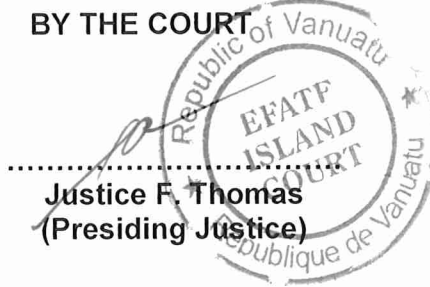
4. Right of Appeal: Parties have 30 days from the date of this judgment to appeal to the appropriate appellate court.

DATED at Port Vila this 23<sup>rd</sup> April, 2025



Justice T. Shem Arlie  
(Member)

BY THE COURT



Justice F. Thomas  
(Presiding Justice)



Justice L. Sakita  
(Member)