



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT OF KENYA AT NAIROBI
CAUSE NO 660 OF 2014

PIUS MUEMA MUTETI CLAIMANT

VERSUS

PROFESSIONAL TOOLS LTD RESPONDENT

Claimant in person

JUDGMENT

1. Claimant seeks payment of maximum compensation of twelve (12) months' salary for alleged unlawful termination of his employment by the Respondent and payment of terminal benefits set out in the Memorandum of claim as follows;

- i. one (1) month's salary in lieu of notice in Kshs.13,000.00; and
- ii. salary arrears for February 2012.

Facts of the Claim

2. The Claimant was employed by the Respondent on 16th June 2006 as a driver at a monthly salary of Kshs.13,000.00.

The Claimant served continuously until 9th March 2012 when his services were terminated by the Respondent.

The Claimant was accused by the Respondent of stealing a lawn mower on the basis that he had been captured on CCTV camera on the act but Claimant denies having stolen the lawn mower.

It is the Claimant's case that he was instructed to deliver the lawn mower to the American Embassy and had a delivery note with him for the purpose.

3. 4. The Claimant stated that he was not given a notice to show cause, nor was he subjected to a disciplinary hearing.

The Claimant added that he did not get a letter of termination with reasons for the decision taken by the employer.

5. The Claimant was now employed elsewhere and seeks to be awarded as claimed.

6. The Advocate for the Respondent entered appearance on 7th May 2014 but did not file any statement of Response nor did they attend the hearing of the case.

The suit by the Claimant is therefore undefended.

Determination

7. The Court is satisfied that the Claimant was employed by the Respondent as a driver and his employment was terminated by the Respondent for no valid reason and without following a fair procedure.

The termination of employment was without notice and the Claimant was not paid salary for days worked in the month of February 2012.

8. The Court finds that the termination of the employment of the Claimant by the Respondent was contrary to **Section 45(1)** as read with **Section 45(2)(a)** and **(c)** of the Employment Act, 2007 and the Claimant is entitled to compensation in terms of **Section 49(1)** as read with **Section 49(4)** of the Act.

9. The Claimant served the Respondent for a relatively short period and had found alternative employment. However, the Claimant suffered loss and damage by fact of the unlawful termination.

10. The Court awards the Claimant six (6) months' salary being compensation for the unlawful loss of employment in the sum of Kshs.78,000.00.

11. The Claimant is also awarded Kshs.13,000.00 in lieu of notice and Kshs.13,000.00 being salary for the month of February 2012.

Total Award Kshs.104,000.00.

12. The Award is payable with interest at Court rates from date of this judgment till payment in full.

13. The Respondent is also to pay the costs of the suit.

Dated and Delivered at Nairobi this 31st day of July, 2015.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE