



Banking Insurance & Finance Union v Elimu Sacco Society Limited (Cause E054 of 2024) [2025] KEELRC 2523 (KLR) (25 September 2025) (Ruling)

Neutral citation: [2025] KEELRC 2523 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E054 OF 2024
S RADIDO, J
SEPTEMBER 25, 2025

BETWEEN
BANKING INSURANCE & FINANCE UNION CLAIMANT
AND
ELIMU SACCO SOCIETY LIMITED RESPONDENT

RULING

1. For determination is a Motion dated 17 October 2024 by the Banking Insurance & Finance Union (the Union) seeking orders:
 - i. ...
 - ii. That leave be and is hereby granted to the Claimant/applicant to amend its Memorandum of Claim in terms of the annexed draft amended Memorandum of Claim within Fourteen (14) days from the date of the orders of this Honourable Court.
 - iii. That the Respondent be and is hereby granted corresponding leave to amend its Memorandum of Reply if need be within Fourteen (14) days of service of the Amended Claim.
 - iv. That the costs of this application be in the cause.
2. The primary grounds advanced in support of the Motion were that Elimu Sacco Society Ltd (the Respondent) started harassing and victimising its employees who had joined the Union after the filing of the Cause; that one of the employees, Duncan Achola Andiego had his contract unlawfully terminated allegedly on ground of expiry of contract after more than 10 years of service; it was necessary to amend the Memorandum of Claim to enable the Court determine the real issues in dispute and that it was in the interest of justice to allow the application for amendment.



3. On 8 May 2025, the Court directed the Respondent to file and serve a response to the Motion before 23 May 2025, and the Union was also directed to file any further affidavit and submissions before the end of 30 May 2025.
4. The Respondent was ordered to file and serve submissions before the end of 6 June 2025.
5. The Respondent filed Grounds of Opposition to the Motion on 3 June 2025, wherein it asserted that the proposed amendments were diametrically different from the initial cause of action; the proposed amendments would cause a misjoinder of causes of action and that the Union had not considered the provisions of Order 8 Rule 7 of the Civil Procedure Rules on amendments.
6. The Union did not file any further affidavit or submissions. The Respondent filed its submissions on 16 July 2025.
7. The Court has considered the Motion, affidavit in support, Grounds of Opposition and submissions.
8. The Banking Insurance & Finance Union (the Union) sued Elimu Sacco Society Ltd (the Respondent) on 22 January 2024, and it stated the Issue in Dispute as:
Refusal/failure by the Respondent Sacco to deduct and remit Union dues to the Claimant Union.
9. The prayers pleaded by the Union were:
 - i. A declaration from the Honourable Court that the Claimant is entitled to union dues in respect of the Thirteen (13) unionisable employees who have been recruited to the Union.
 - ii. There be an order from the Honourable Court directing the Respondent to deduct union dues from the salaries of the Thirteen (13) employees who have enrolled into membership of the Union and remit the same to the Claimant Union within seven days (7) of the judgment hereof.
 - iii. An order from the Honourable Court directing the Respondent to, within ten days (10) of the judgment hereof, to effect payments by crossed cheque into the Claimant's union account No. 01-020-741448-00 at Standard Chartered Bank Ltd Harambee Avenue Branch in accordance with Gazette Notice No 516 of 13th January 2009.
 - iv. Costs of this claim.
 - v. Any other relief the Honourable Court deems just to grant.
10. The Union filed a draft Amended Memorandum of Claim on 7 March 2025
11. In the draft Amended Memorandum of Claim, the orders sought by the Union are:
 - i. This Honourable Court is prayed to be pleased to declare that the termination of contract of the Grievant by the Respondent is unfair/unlawful.
 - ii. This Honourable Court is prayed to order the reinstatement of the Grievant.
 - iii. This Honourable Court be pleased to award twelve (12) months' gross salary as compensation for unfair/unlawful termination.
 - iv. Costs of this Claim.
 - v. Any other relief this Honourable Court deems just and necessary to award.



12. The reliefs sought in the initial Memorandum of Claim concerned the Union's organisational rights under *the Constitution* of Kenya and the *Labour Relations Act*, i.e. recruitment of members from 3 November 2023 to 9 January 2024.
13. The Union commenced action over the organisational rights dispute on 22 January 2024.
14. The proposed amendment seeks to agitate for an action founded on unfair termination of an employee under the *Employment Act*, 2007.
15. The contract is pleaded to have lapsed or been unfairly terminated on or around 30 April 2024.
16. It is clear that the proposed amendment would amount to a complete abandonment of the initial cause of action presented earlier before the Court.
17. It is also noteworthy that the Court has delivered 3 Rulings on the action for organisational rights by the Union, and it has not succeeded in those applications.
18. The proposed amendments introduce a radical and complete departure from the initial action by the Union.

Orders

19. In light of the above, the Motion dated 17 October 2024 is found without merit and is dismissed with costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN MERU ON THIS 25TH DAY OF SEPTEMBER 2025.

RADIDO STEPHEN, MCI Arb

JUDGE

Appearances

For Claimant Mr Odero, Deputy Secretary-General

For Respondent Ms Obiayo, Federation of Kenya Employers

Court Assistant Wangu

