



Kenya County Government Workers Union v County Government of Kisumu & 4 others (Cause E017 of 2024) [2024] KEELRC 1244 (KLR) (15 May 2024) (Ruling)

Neutral citation: [2024] KEELRC 1244 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE E017 OF 2024**

**S RADIDO, J
MAY 15, 2024**

BETWEEN

KENYA COUNTY GOVERNMENT WORKERS UNION CLAIMANT

AND

COUNTY GOVERNMENT OF KISUMU 1ST RESPONDENT

**CHIEF OFFICER FINANCE, COUNTY GOVERNMENT OF
KISUMU 2ND RESPONDENT**

**COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE, COUNTY
GOVERNMENT OF KISUMU 3RD RESPONDENT**

**COUNTY SECRETARY, COUNTY GOVERNMENT OF KISUMU 4TH
RESPONDENT**

GOVERNOR, COUNTY GOVERNMENT OF KISUMU 5TH RESPONDENT

RULING

1. The Kenya County Government Workers Union (the Union) sued the Respondents on 12 March 2024, and the issues in dispute were stated as:

The unlawful failure, neglect and/or refusal by the County Government of Kisumu to remit union dues to the Kenya County Government Workers Union.

2. At the same time, the Union filed a Motion seeking orders:

i. ...

ii. That a temporary injunction do issue restraining the Respondents, their officers, staff, agents, servants and/or any other person acting at their behest howsoever from withholding any union



dues deducted from the Claimants' members pending the hearing and determination of this application.

- iii. That the costs of this application be provided for.
3. The reasons advanced in support of the Motion were that despite having a recognition agreement, the Respondents had failed to remit union subscriptions for some months from 2013 to 2021 without any explanation; that the failure was an affront to the Claimants and members' rights to fair labour practices; that the failure was a weapon to constrain the Union from organising; that the Union had written to the Respondents demanding the payment of the subscriptions but the Respondents maintained that there were no outstanding union dues.
4. Upon service, the Respondents filed a Notice of Preliminary Objection on 15 April 2024, contending that:
 - i. This labour dispute has not been reported to the Cabinet Secretary in contravention of Section 62 of the *Labour Relations Act*.
 - ii. The Claim is prematurely filed as the Claimant has not satisfied the requirements of Section 5(3) of the Employment and Labour Relations Court (Procedure) Rules 2016 which provides that where no conciliation has taken place, the statement of claim shall be accompanied by an affidavit sworn by the claimant or by the representative of that Claimant attesting to the reasons why conciliation has not taken place.
 - iii. The Applicants' suit is incompetent, fatally defective, bad in law and an abuse of the Court process and should be struck out with costs to the Respondents.
5. The Union must have realised the merit of the Objection because on 25 April 2024, it filed a Notice of Withdrawal of the Cause.
6. Perhaps unaware of the Notice, the Respondents filed their submissions on 26 April 2024.

ORDERS

7. The Court will grant leave to the Union to withdraw the Cause but since the Notice was only filed after the Respondents had raised a Preliminary Objection, the Court will award costs of the Motion to the Respondents.

DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 15TH DAY OF MAY 2024.

RADIDO STEPHEN, MCI Arb

Judge

Appearances

For Claimant James Oketch & Co. Advocates

For Respondents Office of the County Attorney

