



**Andika v Jatel Communications Limited (Cause E369 of 2025)
[2025] KEELRC 2732 (KLR) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2732 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E369 OF 2025
AK NZEI, J
OCTOBER 3, 2025**

BETWEEN

MATENDECHERE CALEB ANDIKA CLAIMANT

AND

JATEL COMMUNICATIONS LIMITED RESPONDENT

RULING

1. The application before me for determination is the Claimant's Notice of Motion dated 3rd June, 2025 and shown to be brought under Order 10 Rule 8 of the Civil Procedure Rules, Section 25 of the [Civil Procedure Act](#) and all other enabling provisions of the law. The Claimant/Applicant seeks Orders:-
 - a. That the Court be pleased to enter Judgment for the Claimant against the Respondent who has failed to enter appearance and to file defence within the stipulated period of time, having been served with the summons to Enter Appearance, Claim and Verifying Affidavit.
 - b. That the Respondent be condemned to pay costs of the application.
2. The application sets out on its face the grounds on which it is brought, and is anchored on the annexed supporting affidavit of Solomon Akanga Advocate sworn on 3rd June, 2025. It is deponed in the said supporting affidavit:-
 - a. that the Respondent was served with summons to Enter Appearance, together with suit documents, on 30th April, 2025 but did not file any response within the prescribed period.
 - b. that the time within which response ought to have been filed lapsed on 28th May, 2025, hence the application.
3. The application is opposed by the Respondent vide a replying affidavit sworn by Dennis Micheni on 14th July, 2025. It is deponed in the said replying affidavit:-



- a. that having been served with summons to Enter Appearance on 30th April, 2025, the Respondent entered appearance on 22nd May, 2025 and subsequently filed response to claim pursuant to the Court's directions given when the matter came up for mention.
 - b. that the Claimant's application dated 3rd June, 2025, is overtaken by events as the Respondent's response was filed as directed by the Court on 26th May, 2025.
 - c. that the application is premised on erroneous assumption that the Respondent failed to respond, and is misconceived and pre-mature.
4. There is an affidavit of service on record, filed by the Claimant's Advocate, indicating that the summons to Enter Appearance/Suit documents were served on the Respondent on 30th April, 2025. There is also on record a Memorandum of Appearance dated 7th May, 2025, and which the Respondent has deponed was filed on 22nd May, 2025. The Court's record shows that on 26th May, 2025, the matter was mentioned before the Assistant Deputy Registrar (ADR), and that in the presence of Counsel for both parties, the Assistant Deputy Registrar fixed the matter for mention before this Court on 8th July, 2025.
 5. A few days after appearing before the Assistant Deputy Registrar as aforesaid, the Claimant filed the Notice of Motion herein (dated 3rd June, 2025) under a Certificate of Urgency. The application was placed before the Duty Court on 4th June, 2025 as this Court was then on annual leave, and was fixed for mention before this Court on 8th July, 2025. The Respondent filed response to the Claimant's claim on 7th July, 2025.
 6. Rule 29(1) of the Employment and Labour Relations Court (Procedure) Rules 2024 provides as follows:-
 - “(1) If a party served with a statement of claim intends to respond, the party shall, within twenty eight days from the date of service, (or such shorter time as the Court may direct in urgent matters for reasons given in writing), enter appearance and file and serve a response to the claim.”
 7. This Court's said Rules appear to be silent on the length of time within which a response to claim should be filed after entry of appearance, if the response is not filed together with the memorandum of appearance. Rule 29(4) of the Court's said Rules provide that pleadings shall close fourteen days after service of reply to a response to claim, and that where no reply to a response to claim is filed, pleadings shall close fourteen days after service of response.
 8. Rule 31(1) of the Employment and Labour Relations Court (Procedure) Rules 2024 provides that:-
 - “(1) Where a respondent has failed to enter appearance or file a defence, the Claimant may apply to the Court for directions that the matter proceeds to formal proof as an undefended suit.”
 9. As already demonstrated in this Ruling, the suit herein stands defended, and this Court's Rules of Procedure (the Employment and Labour Relations Court (Procedure) Rules 2024) do not provide for entry of judgment in default of appearance and defence/response. This Court, being a specialised court, has its aforesaid rules of procedure, specifically tailored to suit its specialised nature.
 10. Having said that, and having considered the affidavits filed on behalf of both parties in support of and in opposition to the Notice of Motion dated 3rd June, 2025, which Counsel for both parties relied on, I find no merit in the said application, and I hereby dismiss the same.



11. Each party shall bear its own costs of the application.
12. The suit shall be fast-tracked, and shall be fixed for hearing.
13. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 3RD DAY OF OCTOBER 2025

AGNES KITIKU NZEI

JUDGE

order

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

Appearance:

Mr. Wanjohi for the Claimant/Applicant

Mr. Kahama for the Respondent

