



REPUBLIC OF KENYA



KENYA LAW
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**Chinji v Frodak Kenya Limited & another (Cause 117 of 2018)
[2025] KEELRC 2780 (KLR) (9 October 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2780 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
CAUSE 117 OF 2018
MA ONYANGO, J
OCTOBER 9, 2025**

BETWEEN

JOHN MWINDOTI CHINJI CLAIMANT

AND

FRODAK KENYA LIMITED 1ST RESPONDENT

BUTALI SUGAR MILLS 2ND RESPONDENT

JUDGMENT

1. The Claim herein was instituted vide Memorandum of Claim dated 1st February 2018 by the Claimant seeking the following orders against the Respondents: -
 - a. A declaration that the termination process as carried out by the Respondent is unlawful and that during his employment with the Respondent, he was not remunerated as required by law
 - b. Payment of sums of money claimed in the Memorandum of Claim.
 - c. Costs and interests
 - d. Any other relief that the Court may deem fit and just to grant
2. The Claimant averred that he was employed by the Respondent from 8th October 2014 until 2nd May 2017 when his employment was unfairly terminated by the Respondent without any justifiable reasons.
3. The Claimant particularized the unlawfulness of the termination of his employment as follows:
 - i. The termination was without any fair valid reason
 - ii. The termination was not in accordance with fair procedure
 - iii. No leave pay was given



- iv. No one months' salary in lieu of notice was paid
 - v. No overtime dues were paid
 - vi. No compensation for unfair termination was paid.
4. The Claimant contended that owing to the unfair and unlawful termination, he is entitled to terminal benefits which he itemized as below:
- i. One month pay in lieu of notice Kshs. 11,730
 - ii. Compensation for unfair termination Kshs. 122,400
 - iii. Unpaid house allowance Kshs 45,900
 - iv. Pro-rata leave.....Kshs 11.33
 - v. Overtime dues.....Kshs 289,894.7
 - vi. Service pay/Gratuity Kshs 10,200
 - vii. Accrued leave earned but not taken Kshs. 20,400
- Total Kshs. 500,536.03
5. In response, the 1st Respondent filed a Reply to the Statement of Claim dated 3rd May 2018 denying the averments made by the Claimant in his claim particularly, that he was the Respondents' employee. It is the 1st Respondent's case that since there existed no employment or contractual obligation binding the Claimant and the 1st Respondent, the claim herein is misconceived and unwarranted.
6. The 1st Respondent however stated that if the Claimant was dismissed from employment, it was because he participated in an illegal strike.
7. The 1st Respondent urged the court to strike out the Claimant's case.
8. The 2nd Respondent entered appearance on 25th June 2019 through the firm of L.G. Menezes & Company Advocates, but did not file any pleadings.

The Evidence

- 9. The suit was heard on 4th November 2024 when the Claimant testified as CW1 and adopted his witness statement filed with his claim as part of his evidence in chief. He also relied on the documents he filed in support of his case as his evidence.
- 10. In his testimony, the Claimant averred that he was engaged by the 1st Respondent in November 2014 and worked until 2nd May 2017 when his employment was terminated without any notice.
- 11. He stated that on the said date, he reported to work as usual but was denied access to the Respondents' premises at the gate on the basis that he had asked for protective apparel. He further stated that during the course of his employment, he was not paid house allowance or given housing. He therefore sought to be awarded the prayers he sought in his claim.
- 12. On cross-examination by Counsel Achieng, the Claimant stated that he signed an employment contract with the 1st Respondent which was reviewed every six months. He averred that he was paid based on the work done, at the rate of Kshs. 18 per tonne. He denied participating in any strike and stated that he was not aware of one. He maintained that the cause of his termination was his request for



- an overall and other work equipment. He admitted that he received some money at the Labour Office after he was terminated from employment.
13. On re-examination, the Claimant stated that he was paid Kshs 10,000 at the labour office as his salary but he was not paid overtime, leave dues and house allowance.
 14. At the close of the Claimant's case, counsel for the 1st Respondent sought orders that the evidence of the 1st Respondent's witness in Cause No. 105 of 2018 be applied to the present suit. The Court allowed the application, and the said evidence was accordingly adopted as part of the record in this matter.
 15. Parties were then directed to file written submissions. The Claimant's submissions are dated 21st February 2025 while the 1st Respondent's submissions are dated 3rd February 2025. The 2nd Respondent did not file its submissions.
 16. In his submissions, the Claimant asserted that on 2nd May 2017, he reported to work as usual only to be denied access to the company and told that there was no work for him. He submitted that in his testimony, he told the court that he was terminated from employment after he asked to be supplied with protective gears, salary increment and remittance of his statutory deductions.
 17. It is therefore the Claimant's submission that he was sent away from work without being told the reason and without being accorded any hearing. While citing the case in *Postal Corporation of Kenya vs Andrew K. Tanui*(2019)eKLR, the Claimant submitted that the purported invitation to attend disciplinary hearing does not meet the requirements laid down by section 41 of the *Employment Act*.
 18. On this basis, the Claimant urged the court to reach a finding that he had discharged the burden of proving unfair termination of his employment by the Respondents.
 19. On its part, the 1st Respondent submitted that the Claimant failed to adduce evidence in the form of NHIF statements or contracts to show that he continued to work for the 1st Respondent after his contract lapsed.
 20. According to the 1st Respondent, the Claimant was an employee who was paid by the day, for the work done only and by virtue of him not renewing his contract, meant that the 1st Respondent had to outsource and pay for another person to do the Claimant's job. In support of this position, the 1st Respondent cited the case of *Rajah Barasa & 4 Others vs Kenya Meat Commission* (2016) eKLR.
 21. It is submitted that the Claimant has not discharged the burden of proving that termination was at the 1st Respondent's option or that it was unlawful.
 22. With regard to the issue whether the Claimant is entitled to the prayers he is seeking in his claim, the 1st Respondent submitted that the Claimant acknowledged and confirmed non-renewal of his contract in addition to receiving his dues on time without challenging the validity of the payroll cash listing as presented by the 1st Respondent, the 1st Respondent urged this court to find that nothing is owed to the Claimant by the 1st Respondent.
 23. In the end, the 1st Respondent prayed for the dismissal of the Claimant's suit with costs.

Determination

24. Upon considering the pleadings herein, the evidence of the parties, the submissions and the authorities cited, I find that the issues for determination are: -
 - i. Whether the Claimant was an employee of the 1st Respondent or the 2nd Respondent



- ii. Whether the Claimant's contract lapsed by effluxion of time
 - iii. Whether the reliefs sought should issued
25. On the first issue, the 1st Respondent in its reply to the Statement of Claim denied that the Claimant was its employee. However, from the documents filed by 1st Respondent, the Claimant's employment contracts and the payroll cash listings at page 9 of the of its lists of documents, it is clear that the 1st Respondent had engaged the Claimant as a loader.
26. It is therefore follows that the Claimant was the 1st Respondent's employee.

Whether the Claimant's contract lapsed by effluxion of time

27. The Claimant in his testimony and in the witness statement he adopted in court as part of his evidence stated that he was terminated from employment on 2nd May 2017 without notice.
28. On the other hand, the 1st Respondent has maintained that the Claimant's contract lapsed by effluxion of time.
29. In the 1st Respondent's list of documents at page 5, the 1st Respondent attached a six-month contract/ appointment letter which indicates that the Claimant's employment contract was to lapse on 1st May 2017. This therefore means that the Claimant was not an employee of the 1st Respondent as at 2nd May 2017 when the events giving rise to this claim are alleged to have occurred. His claim is consequently limited to the period prior to the expiry of his contract on 1st May 2017.
30. It is trite law that fixed-term contracts terminate automatically by effluxion of time. The Court of Appeal in the case of Francis Chire Chachi v Amatsi Water Services Company Limited, [2012] eKLR the court stated as follows: –
- “This court has recently stated that employers are not under any obligation to give employees reasons for non-renewal of fixed term contracts, unless there is such an obligation created in the expiring contract.”
31. Similarly, in the case of The Registered Trustees De La Salle Christian Brothers T/A St. Mary's Boys' Secondary School v Julius D. M. Baini [2017] eKLR, the Court of Appeal observed as follows:-
- “It is our finding that the respondent's contract ended on 31st December, 2014. There was no obligation on the appellant to give notice of expiry or information that it would not be renewed. We find no firm evidence that there was either an extension of the expired contract or a commencement of a new one. Nor is there firm evidence that the respondent worked for one week in January 2015. There was therefore no question of unfair termination of employment. The claim had no basis and ought to have been rejected.”
32. Consequently, the Claimant's employment having lawfully lapsed by effluxion of time on 1st May 2017, there was no subsisting employer-employee relationship between him and the 1st Respondent as at 2nd May 2017.
33. In the end, the Claimant's suit is therefore dismissed in its entirety.
34. There shall be no orders as to costs.

DATED, DELIVERED AND SIGNED THIS 9TH DAY OF OCTOBER, 2025.

M. ONYANGO



JUDGE

