



**Banking Insurance and Finance Union (K) Union v Dib Bank (Kenya) Limited  
(Cause E435 of 2025) [2025] KEELRC 3058 (KLR) (31 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3058 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E435 OF 2025  
SC RUTTO, J  
OCTOBER 31, 2025**

**BETWEEN  
BANKING INSURANCE AND FINANCE UNION (K) UNION ..... CLAIMANT  
AND  
DIB BANK (KENYA) LIMITED ..... RESPONDENT**

**RULING**

1. By a Notice of Motion dated 16<sup>th</sup> May 2025, the Claimant/Applicant seeks orders compelling the Respondent to deduct and remit union dues and agency fees from its unionisable employees effective 30<sup>th</sup> April 2025, and to restrain the Respondent from victimizing, coercing, or disciplining eight union members on account of their union membership.
2. The Application is supported by the grounds set out on its face and the Affidavit sworn on 16<sup>th</sup> May 2025 by Tom Odero, the Deputy Secretary General of the Claimant/Applicant. Mr. Odero avers that the Respondent, being a member of the Kenya Bankers Association, entered into a Recognition Agreement with the Claimant through the Association to govern the terms and conditions of employment for unionisable employees.
3. He further states that pursuant to the said Recognition Agreement, the Claimant recruited eight unionisable employees of the Respondent who duly signed check-off forms, which were forwarded to the Respondent to facilitate the deduction and remittance of union dues effective 10<sup>th</sup> December 2024.
4. Mr. Odero contends that despite due notification, the Respondent failed and/or refused to deduct and remit the union dues as required by law, prompting the Claimant to report a trade dispute to the Cabinet Secretary, Ministry of Labour and Social Protection on 19<sup>th</sup> February 2025.
5. Upon referral of the dispute, a Conciliator was appointed and, on 7<sup>th</sup> April 2025, she issued a Certificate of Agreement in which the Respondent agreed to: deduct and remit union dues for the



- eight members who signed check-off forms effective 30<sup>th</sup> April 2025; and deduct and remit agency fees for all unionisable employees from the same date.
6. Mr. Odero asserts that despite participating in the conciliation proceedings and executing the settlement agreement on 7<sup>th</sup> April 2025, the Respondent has failed to implement the agreed deductions and remittances.
  7. He further avers that the Claimant is apprehensive that the Respondent may intimidate, threaten, or victimize the eight union members to coerce them into resigning from the Union, and thus seeks the Court's protection to safeguard their constitutional right to freely join and participate in trade union activities without interference.
  8. The Respondent opposed the Application through a Replying Affidavit sworn on 11<sup>th</sup> June 2025 by Rodgers Mungumi, its Head of Human Resources.
  9. Mr. Mungumi confirms that the Respondent is a member of the Kenya Bankers Association and that in November 2024, the Claimant recruited eight of its unionisable employees. The Respondent became aware of this recruitment upon receipt of a letter dated 25<sup>th</sup> November 2024 from the Claimant enclosing three sets of signed check-off forms for the eight employees.
  10. He adds that the Respondent subsequently received another letter dated 17<sup>th</sup> January 2025 from the Claimant requesting the deduction and remittance of union dues for the recruited employees.
  11. Mr. Mungumi avers that on 4<sup>th</sup> April 2025, the Respondent was served with a Memorandum of Claim filed by the Claimant after referring the dispute to the Cabinet Secretary for conciliation. He confirms that the Respondent participated in the conciliation proceedings, which culminated in a Certificate of Agreement dated 7<sup>th</sup> April 2025, under which the Respondent agreed to deduct and remit union dues for eight employees and agency fees for all unionisable staff effective 30<sup>th</sup> April 2025.
  12. Mr. Mungumi avers that following the execution of the Agreement, one of the recruited employees, Mr Abdirahim Isaack Jari, resigned from employment, while two others informed the Respondent via email of their withdrawal from union membership.
  13. He maintains that the Respondent has not victimized, intimidated, threatened, or subjected any employee to disciplinary action on account of their membership in or association with the Claimant Union.

### **Submissions**

14. The Application was canvassed by way of written submissions. Only the Claimant filed written submissions.

### **Analysis and Determination**

15. From the record, the issues for determination as identified by the Court are:-
  - i. Whether the Respondent should be directed to deduct and remit trade union dues and agency fees from its unionisable employees; and
  - ii. Whether the Court should restrain the Respondent from victimising employees on account of their union membership.



## Deduction and remittance of trade union dues and agency fees

16. It is common cause that the Respondent is a member of the Kenya Bankers Association and that in November 2024, the Claimant recruited eight of its employees and submitted duly signed check-off forms for the deduction and remittance of union dues.
17. It is further uncontested that the Claimant reported a trade dispute to the Ministry of Labour and Social Protection, which was resolved through conciliation, resulting in a Certificate of Agreement. Under the agreement, the Respondent undertook to deduct and remit union dues for the eight members and agency fees for all unionisable employees effective 30<sup>th</sup> April 2025. However, the terms of the agreement were not implemented, giving rise to the present proceedings.
18. In explaining its failure to implement the agreement, the Respondent asserts that following its execution, one employee resigned from employment while two others withdrew from the union, reducing the number of union members from eight to five.
19. Section 48(2)(a) and (b) of the [Labour Relations Act](#) sets out the procedure for the deduction and remittance of trade union dues by an employer as follows:
  - “(2) A trade union may, in the prescribed form, request the Minister to issue an order directing an employer with more than five employees who are members of the union to—
    - (a) deduct trade union dues from the wages of its members; and
    - (b) pay the amounts so deducted—
      - (i) into a specified account of the trade union; or
      - (ii) in specified proportions into specified accounts of a trade union and a federation of trade unions...”
20. As evident from the foregoing provision a trade union may only seek a ministerial order for the deduction of trade union dues from an employer with “more than five employees” belonging to the trade union in question.
21. In the present case, it is evident from the material on record that only five of the Respondent’s employees are members of the Claimant union. Accordingly, under Section 48(2) of the [Labour Relations Act](#), the statutory threshold has not been met, and the Respondent is therefore under no legal obligation to deduct and remit union dues to the Claimant.
22. However, I wish to underscore that the membership status of the five unionised employees remains unaffected by the Respondent’s lack of obligation to deduct trade union dues from their salaries. The said members may, nonetheless, maintain their union membership by remitting trade union dues directly to the Claimant.
23. That said, the next issue for consideration is whether the Respondent is obligated to deduct and remit agency fees from employees who are not union members but are covered under the Collective Bargaining Agreement (CBA) between the Kenya Bankers Association and the Claimant union.
24. As earlier adverted, the Respondent is a member of the Kenya Bankers Association, which, from the record, entered into a Memorandum of Agreement with the Claimant Union on behalf of its members. It thus follows that the Respondent is bound by the terms of that Agreement.



25. Worthy to note is that Clause 1 of the said Agreement grants the Claimant Union full recognition by the Kenya Bankers Association on behalf of its members, provided the Union remains reasonably representative of the employees within the scope of the Agreement. This aligns with Section 54(2) of the Labour Relations Act, which stipulates that:
- “(2) A group of employers, or an employers’ organisation, including an organisation of employers in the public sector, shall recognise a trade union for the purposes of collective bargaining if the trade union represents a simple majority of unionisable employees employed by the group of employers or the employers who are members of the employers’ organisation within a sector.”
26. It is evident from the record that following the Kenya Bankers Association’s recognition of the Claimant, a CBA was concluded between the two parties, the current one having been executed on 26<sup>th</sup> June 2023.
27. It is instructive to note that Clause 2A of the CBA provides that the provisions of the Labour Relations Act relating to the payment of agency fees for unionisable employees shall apply.
28. Further to this, through Gazette Notice No. 168 of 2024, published on 1<sup>st</sup> November 2024, the Cabinet Secretary for Labour and Social Protection directed the Kenya Bankers Association (employer) to deduct agency fees from unionisable employees who are not members of the Claimant union but benefit from the CBA registered as RCA No. 225 of 2023.
29. Accordingly, as a member of the Kenya Bankers Association, the Respondent is bound by the aforementioned Gazette Notice to deduct agency fees from its non-unionised employees who are covered by the CBA dated 26<sup>th</sup> June 2023 and remit the same to the Claimant’s gazetted bank account.

#### **Victimization of the Claimant’s Members**

30. The Claimant has also sought orders restraining the Respondent from victimizing, coercing, terminating, or disciplining employees on account of their union membership.
31. In this case, the record discloses no evidence from the Claimant to demonstrate that any of its members has been victimized, disciplined, or terminated on account of union membership.
32. That said, it is worth pointing out that victimizing an employee on account of union membership amounts to a direct violation of Article 41(2) (c) of the Constitution, which guarantees every worker the right to form, join, or participate in the activities and programmes of a trade union, and Article 36, which protects the freedom of association. The right to join a trade union is fundamental and should not be infringed. Employees must be free to exercise this right without fear of intimidation or reprisal.

#### **Orders**

33. In sum, the Court allows the Application dated 16<sup>th</sup> May 2025 on the following terms:
- a. The Respondent shall forthwith commence deduction and remittance of agency fees from all its unionisable employees who are not members of the Claimant union but are covered by the CBA dated 26<sup>th</sup> June 2023 between the Kenya Bankers Association and the Claimant, and remit the same to the Claimant’s gazetted bank account; and
  - b. Costs shall be in the cause.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31<sup>ST</sup> DAY OF OCTOBER 2025.**



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**STELLA RUTTO**

**JUDGE**

In the presence of:

For the Claimant/Applicant Mr. Okello

For the Respondent Ms. Kadima

Court assistant Millicent

Order

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

