



**Ndirangu v New Kenya Co-operative Creameries (Cause 1243 of 2014)  
[2025] KEELRC 2942 (KLR) (30 October 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2942 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1243 OF 2014  
B ONGAYA, J  
OCTOBER 30, 2025**

**BETWEEN**

**ANTHONY NDIRANGU ..... CLAIMANT**

**AND**

**NEW KENYA CO-OPERATIVE CREAMERIES ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed a statement of claim dated 28.05.2014 in person. He subsequently appointed Kabaiku & Company Advocates to act in the suit. The claimant prayed for judgment against the respondent for:
  - a. A declaration that the termination was unfair.
  - b. Payment of one month salary in lieu of notice, salary arrears for days worked in November 2012, Kshs. 152, 716.67.
  - c. 12 months' salaries compensation for unfair termination Kshs.93, 500.00 x 12 = Kshs.1, 222, 000.00.
  - d. Certificate of service.
  - e. Costs and interest.
2. The claimant pleaded as follows:
  - a. The claimant was employed by the respondent from February 2004 as an internal auditor at Kshs.93,500.00 per month. He worked until 16.11.2012.
  - b. He was unfairly dismissed by letter dated 16.11.2012. the letter stated that the claimant had been disrespectful to the committee at the meeting of 15.11.2012. Further, it had been established that he directly communicated to the Board of Directors without observing



due process and by overlooking protocol which amounted to insubordination. Further, he refused to take leave when his supervisor asked him to go on leave. Further, his conduct was inconsistent with teamwork by refusing to return files to the human resource office. He was therefore summarily dismissed in accordance with respondent's code of regulations. However, on humanitarian grounds the committee had decided to substitute summary dismissal with termination and his last working day was fixed as 19.11.2012. Terminal dues would be paid less liability to the respondent.

3. The respondent filed the statement of response dated 01.04.2019 through J.M Njenga & Company Advocates. The respondent prayed that the suit be dismissed with costs and further pleaded as follows:
  - a. Admitted employing the claimant as pleaded for the claimant.
  - b. He was dismissed upon the reasons in the termination letter. He became uncooperative and engaged in insubordination.
  - c. The respondent was willing to pay the terminal dues and issue a certificate of service but the claimant had refused to clear as expected.
  - d. The employment was not unfairly terminated and claimant is not entitled to any compensation as claimed.
  
4. The claimant testified to support his case and the respondent's witness (RW) was Michael Mukopi, human resource manager. Final submissions were filed for the parties. The Court has considered the material on record and returns as follows:
  - a. The parties were in a contract of employment as pleaded for the claimant.
  - b. The termination of employment was by letter dated 19.11.2012.
  - c. The Claimant has testified that he was bound to report through the Chief Internal Auditor. He also admitted that in breach of that requirement he reported directly to the Board because the audit report he had prepared had been mutilated. However, while alleging some of the senior officers were implicated, he did not testify that all of them were so implicated and he confirmed his immediate supervisor, Chief Internal Auditor was in place. The Court finds that the claimant breached the respondent's operational requirements in that respect and the overriding reason for termination being insubordination was genuine as existing and as well fair as relating to claimant's conduct, capacity, , compatibility and respondent's operational systems per sections 43 and 45 of the Employment Act, 2007.
  - d. The claimant faulted the procedure by urging that some of the panel members were conflicted as being implicated in the whistle blowing in the audit report he had prepared. His behaviour at the disciplinary hearing also appear to have been part of the reasons for the dismissal. The respondent has not rebutted those two procedural improprieties. Accordingly, the termination was unfair procedurally. The submissions for the claimant are upheld in that respect.
  - e. The Court has considered the factors in section 49 of the Act on assessment of compensation. The claimant significantly contributed to his termination in view of the fair reason for termination. For the found procedural unfairness the claimant is awarded three months compensation making Kshs. 93, 500.00 x 12 thus Kshs. 280, 500.00 plus undisputed terminal dues Kshs. 152, 716.67. The sum payable is Kshs. 433,216.67 less PAYE.
  - f. The claimant is entitled to a certificate of service.In conclusion judgment is hereby entered for the claimant against the respondent for orders:



1. The declaration the termination was unfair in procedure as found herein.
2. The respondent to pay the claimant Kshs. 433,216.67 less PAYE by 15.12.2025 failing interest to be payable thereon at court rates from the date of this judgment till full payment..
3. The respondent to deliver the claimant's certificate of service by 15.12.2025.
4. The respondent to pay claimant's costs of the suit.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS THURSDAY 30<sup>TH</sup> OCTOBER, 2025.**

**BYRAM ONGAYA**

**PRINCIPAL JUDGE**

