

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT NAKURU  
APPEAL NUMBER E054 OF 2024**

**BETWEEN**

TIMSALES LIMITED .....APPELLANT

**AND**

PATRICK MBURU ..... RESPONDENT

**RULING**

1. The Respondent filed an application dated 26th June 2025, asking the Court to strike out the Appeal, on the ground that the Objection to the Award of the Director of Occupational Safety and Health [DOSH], was filed outside the period of 60 days, prescribed under Sections 51 and 52 of the Work Injury Benefits Act.
2. The application is founded on the affidavit of the Respondent, sworn on 25th June 2025.
3. His position is that Award was made on 21st February 2023.
4. The Appellant lodged objection on 29th February 2024.
5. Objection was filed outside the stipulated 60 days, under the Work Injury Benefits Act.

6. The Respondent does not deny that objection was lodged on 29th February 2024, outside the prescribed period.
7. The Appellant opposes the application through an affidavit sworn on 30th July 2025, by Lawrence Momanyi, Assistant Legal Manager of the Appellant's Insurer, Mayfair Insurance Limited.
8. His position is that objection dated 17th March 2023, was received by DOSH on 4th April 2023. The Respondent's averment that there was late filing, is incorrect.
9. The application was last mentioned on 31st July 2025, when the Parties indicated that they were relying on their respective affidavits in their entirety.

**The Court Finds:-**

10. The Award of DOSH was made on 23rd February 2023.
11. Objection form, drawn by the Appellant is dated 17th March 2023.
12. It was forwarded to DOSH, through a letter from the Appellant's Advocates, dated 17th March 2023.
13. It is indicated through the stamp of DOSH, to have been received on 4th April 2023.

14. Objection was filed well within the stipulated period of 60 days.
15. The letter dated 14th March 2024 from the Appellant's Advocates to DOSH, was a follow-up, an enquiry on the DOSH's response to the objection, which had not been received by the Appellant within the stipulated time.
16. Follow-up was necessitated by execution proceedings which the Respondent had initiated, in Nakuru Chief Magistrate's Court Miscellaneous Application Number E048 of 2023.
17. DOSH then wrote a response dated 4th July 2024, declining the objection, on the ground that it was received late, on 29th February 2024.
18. This cannot be correct, because the objection form, dated 17th March 2023, is stamped to have been received by DOSH, on 4th April 2023.
19. Having received the decision from DOSH about the objection, the Appellant filed this Appeal on 15th July 2024, 11 days later.
20. The Appeal is validly before the Court.

**IT IS ORDERED: -**

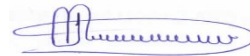
- a. The application is declined.***

**b. The Appellant shall file and serve its Record of Appeal within 21 days of this Ruling.**

**c. No order on the costs.**

Dated, signed and delivered electronically, pursuant to Rule 68 [5] of the E&LRC {Procedure} Rules, 2024, at Nakuru, this 31st day of October 2025.

James Rika  
Judge



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