



**Kariuki v Springboard Capital Limited (Cause E984 of 2023)  
[2025] KEELRC 3220 (KLR) (14 November 2025) (Judgment)**

Neutral citation: [2025] KEELRC 3220 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E984 OF 2023  
SC RUTTO, J  
NOVEMBER 14, 2025**

**BETWEEN**

**JOSPHAT NGURE KARIUKI ..... CLAIMANT**

**AND**

**SPRINGBOARD CAPITAL LIMITED ..... RESPONDENT**

**JUDGMENT**

1. By an Amended Statement of Claim dated 1<sup>st</sup> April 2025, the Claimant avers that he was employed by the Respondent, initially serving as a Senior Business Relationship Officer, and at the time of his termination, he held the position of Branch Manager at the CPA Centre.
2. The Claimant contends that his termination from employment was both substantively and procedurally unfair, effected without just cause and in breach of the principles of natural justice. Accordingly, he seeks from the Respondent compensation for unfair termination, payment in lieu of notice, salary arrears for nine days, and remuneration for six accrued leave days, together with costs of the suit and interest.
3. In response to the Statement of Claim, the Respondent filed a Statement of Response together with a Counterclaim. The Respondent avers that as Branch Manager, the Claimant had overall supervisory responsibility over the Respondent's assets, staff, and the general operations of the branch, duties which he allegedly failed to discharge.
4. Further, the Respondent denies that the disciplinary process violated any legal or procedural requirements and maintains that the Claimant is not entitled to any of the reliefs sought. Consequently, the Respondent prays that the Claim be dismissed as it is unwarranted.
5. Regarding the Counterclaim, the Respondent asserts that the Claimant had an outstanding loan balance of Kshs 62,517.75, which began to attract commercial interest rates on 31<sup>st</sup> March 2022.



- That as at 31<sup>st</sup> January 2025, the outstanding balance had risen to Kshs 79,569.39. Accordingly, the Respondent seeks judgment for Kshs 79,569.39 together with interest and costs of the Counterclaim.
6. In his Reply to the Response and Response to the Counterclaim, the Claimant denies the Respondent's averments, maintaining that his loan account is not non-performing. He contends that as of January 2022, the outstanding loan balance stood at Kshs 11,139.45, which continues to be serviced. On that basis, he prays that both the Response and the Counterclaim be struck out with costs and interest.
  7. In its Reply to the Response to the Counterclaim dated 19<sup>th</sup> May 2025, the Respondent avers that the Claimant had several outstanding loans at the time of his termination and that part of his terminal dues was applied to offset some of the balances. Upon reconciliation of the Claimant's loan accounts, the Respondent asserts that the outstanding amount in respect of loan number 0019020035 is Kshs 9,387.45.
  8. The matter proceeded for hearing on 8<sup>th</sup> July 2025, during which both parties adduced oral evidence in support of their respective cases.

### **Claimant's Case**

9. The Claimant testified in support of his case, and for starters, he adopted his witness statement together with the supplementary witness statement as his evidence in chief. He further produced the initial and supplementary lists and bundles of documents filed on his behalf as his exhibits before the Court.
10. The Claimant testified that under his job description, his supervisory duties included, among others: recruiting competent, motivated, and productive staff; ensuring that all staff received proper induction into the company; providing leadership, supervision, and management through effective performance evaluation, training, mentoring, and coaching; overseeing staff performance and development; ensuring compliance with approved budgets and timelines; promoting adherence to legislation, client agreements, and high operational and service standards; and identifying growth opportunities while maintaining a healthy branch portfolio.
11. He further elaborated on his day-to-day operational responsibilities, stating that he supervised a team comprising seven Relationship Officers, one Team Leader, one Senior Relationship Officer, and one Agent Manager, while overseeing an average of 30 loan applications daily.
12. The Claimant further outlined the Respondent's loan application, approval, and processing procedures.
13. He stated that on 14<sup>th</sup> June 2021, he received an email from the Head of Brand and Business Department (HOBBD), Anastacia Kariuki, requiring him to explain the circumstances under which a client named Peter Njoka had been permitted to act as a proxy for another client, Joseph Ndambiri Mbugua, whose loan application had earlier been rejected.
14. The Claimant testified that he immediately summoned the Relationship Officer who had handled the files for both clients, one Cecilia Naisula, together with the Team Leader and the Senior Relationship Officer. They explained that Joseph Ndambiri Mbugua had applied for a loan of Kshs. 200,000 on or about 26<sup>th</sup> May 2021, but his application was rejected at the Branch Credit Committee (B.C.C.) level because the proposed security was a public service vehicle, contrary to company policy. The client's file was thus closed at the B.C.C. stage and never reached the Claimant's desk.



15. The Claimant further stated that the three officers explained that on or about 13<sup>th</sup> June 2021, another client, Peter Njoka, applied for a loan of Kshs. 200,000, secured by a private motor vehicle and a personal guarantee from Joseph Ndambiri Mbugua.
16. The Claimant averred that the B.C.C. approved the loan, and the file was subsequently forwarded to him and the Main Credit Committee (M.C.C.), who also approved the facility and invited the client to the Respondent's office to execute the Letter of Offer.
17. However, on the day scheduled for execution, officers from the Credit/Risk Department discovered that the person who had presented himself to sign the Letter of Offer was Joseph Ndambiri, not Peter Njoka.
18. The said officers immediately informed the Credit Manager, who in turn notified the HOBD. The HOBD then wrote to the Claimant seeking clarification on the matter.
19. According to the Claimant, the Relationship Officer later admitted to him and the Team Leader that she knew Joseph Ndambiri was impersonating Peter Njoka when he appeared at the banking hall but failed to inform her superiors.
20. The Claimant stated that he relayed this information to the HOBD and requested that a joint meeting be convened involving himself, the client, the Relationship Officer, Senior Relationship Officer, and the Team Leader. However, the HOBD and Credit Manager declined. Consequently, he informed the client that the loan application had been rejected, and each party returned to their respective duties.
21. The Claimant further testified that subsequent emails from the HOBD and the Chief Executive Officer (CEO) implied that he was involved in the fraudulent incident. One such email, which was copied to the Credit Manager, stated in part: "If it quacks like a duck, acts like a duck, then it must be a duck."
22. It was the Claimant's testimony that shortly thereafter, he received an email from the Human Resource Manager, Julie Karanja, directing him to surrender his laptop, office equipment, and client files, and to vacate the premises until further notice.
23. On 16<sup>th</sup> June 2021, the Respondent formally placed him on compulsory leave to facilitate an audit of customer files on the basis that there were customer complaints and concerns about irregularities in his loan approval process.
24. He stated that between 18<sup>th</sup> and 21<sup>st</sup> June 2021, the Respondent, through Julie Karanja, repeatedly demanded that he submit his personal financial records to assist in the audit. He declined, expressing his objection on grounds that the request was unrelated to the stated purpose of the audit.
25. On 1<sup>st</sup> July 2021, the Respondent issued him with a Notice to Show Cause requiring him to explain why disciplinary action should not be taken against him for alleged irregularities in four client files: those of Peter Njoka, Adrian Anunda, Jonathan Kipkemei Misoi, and Engineer Morris Owiti.
26. He submitted his written response on 5<sup>th</sup> July 2021 and subsequently attended a disciplinary hearing on 8<sup>th</sup> July 2021 at Kipevu Restaurant. He testified that the panel comprised the HOBD, the Head of Finance and Administration, the Credit Manager, and the HR Team Leader, all of whom had earlier been copied in the suggestive emails of 14<sup>th</sup> and 15<sup>th</sup> June 2021, insinuating his involvement in the alleged fraud.
27. The Claimant requested to be furnished with the evidence supporting the allegations, but the Respondent declined and directed him to respond solely to the matters outlined in the Notice to Show Cause, despite the absence of supporting documents.



28. The Claimant further averred that following the hearing, he asked the HR Team Leader, Julie Karanja, for a copy of the audio recording of the proceedings, but his request was declined.
29. He was thereafter issued with a termination letter dated 9<sup>th</sup> July 2021, informing him that he had been found culpable in respect of the four client files.
30. In the Claimant's view, the disciplinary hearing was a mere formality intended to validate a pre-determined decision to terminate his employment without due regard to his response or the evidence, rendering the entire process fundamentally flawed.
31. He further asserted that the Respondent failed to issue him with the mandatory one month's notice of termination or pay him salary in lieu thereof.
32. The Claimant testified that on or about 7<sup>th</sup> April 2021, he obtained a staff emergency loan of Kshs. 200,000/- from the Respondent, secured by personal guarantees from his colleagues. At the time of his termination, the outstanding balance was Kshs. 61,590.43, while his accrued salary arrears and leave pay amounted to Kshs. 47,500/-.
33. He stated that despite requesting payment of his terminal dues, the HR Officer, informed him that she had instructions from the HOBD and the CEO to withhold his benefits and offset them against the loan.
34. The Claimant maintained that after this set-off, the outstanding loan should have reduced to Kshs. 14,090/- as at 9<sup>th</sup> July 2021. However, instead of reconciling the account and recovering the balance from his guarantors, the Respondent unlawfully withheld his dues and continued to recover payments from the guarantors.
35. The Claimant added that in January 2025, the Respondent issued him with a loan statement for the period 1<sup>st</sup> April 2021 to 4<sup>th</sup> January 2025, indicating an outstanding balance of Kshs. 11,139.45 and confirming that his guarantors had consistently serviced the loan.
36. He therefore asserted that the Respondent's claim that the loan reverted to commercial interest rates upon his termination, and that he owed Kshs. 79,569.39 was unfounded and merely intended to frustrate him, noting further that he was never served with any formal notice of a change in interest rates as required by law.

### **Respondent's Case**

37. The Respondent presented its case through one witness, Linet Waceke Kihanda, who testified as RW1 and identified herself as the Respondent's Human Resource Officer. Equally, she adopted her witness statement as her evidence in chief and proceeded to produce the initial and supplementary lists and bundles of documents filed on behalf of the Respondent as exhibits before the Court.
38. RW1 testified that the Claimant's response did not satisfactorily address the concerns raised and left several critical questions unanswered regarding the source of the irregularities and adherence to company procedures.
39. RW1 noted, for instance, that the Claimant had stated that Joseph Ndambiri Mbugua's loan application was rejected by the Management Credit Committee due to lack of cash flows, which implied that the Claimant had already approved the application at an earlier stage. Further, he was unable to confirm whether a home visit had been conducted for the customer, Peter Njoka, who was suspected of having acted as a proxy.



40. RW1 stated that the Claimant was thereafter sent on compulsory leave for 14 days to facilitate a detailed audit of customer files and to review his handling of loan applications, following concerns of possible omissions in the approval process.
41. She further testified that as part of the audit, the Respondent requested the Claimant to provide his financial statements, explaining that the request was made in good faith to promote transparency and expedite the audit process. However, the Claimant declined to cooperate and reacted with hostility.
42. RW1 stated that the audit revealed several irregularities, primarily relating to the Claimant's failure to exercise adequate supervision and due diligence, as well as procedural and substantive lapses involving four customer accounts.
43. Specifically, the findings were as follows:
  - i. Peter Njoka: failure to ensure proper management and compliance with the loan application process, thereby exposing the Respondent to credit risk;
  - ii. Adrian Anunda: provision of false information contrary to the Respondent's Code of Conduct and the integrity standards set out in the HR Policy Manual;
  - iii. Jonathan Kipkemoi Misoi: execution of documents without proper due diligence; and
  - iv. Engineer Morris Owiti: failure to conduct a due diligence visit as required under the loan application guidelines and procedures.
44. RW1 maintained that the allegations were clearly explained to the Claimant, and he was accorded an opportunity to respond. After reviewing his written and oral explanations alongside the supporting evidence, the Respondent concluded that the Claimant had mismanaged customer files, thereby compromising its operations. In RW1's view, this conduct was deemed to constitute gross misconduct.
45. Consequently, by a letter dated 9<sup>th</sup> July 2021, the Claimant's employment was terminated.

### **Submissions**

46. The Claimant submitted that the HOBD, the Credit Manager, and the HR Team Leader not only initiated his suspension but also actively took part in the investigations. He further argued that the HOBD and the Credit Manager, both members of the Management Credit Committee, approved Eng. Maurice Owiti's loan without verifying whether due diligence had been conducted, as alleged, yet subsequently sat in judgment over him. In the Claimant's view, they acted as "judge, jury, and executioner."
47. The Claimant further contended that the Respondent failed to provide him with the Audit Report and the supporting documents forming the basis of the charges against him, despite his request for disclosure.
48. On the foregoing basis, the Claimant argued that the disciplinary proceedings were procedurally unfair and violated his right to a fair hearing.
49. To support the Claimant's submissions, reliance was placed on the decision in *John Mbarire v Kenya Airways Limited (2025) eKLR* and *Musa & another v Makini Schools Limited (2025) eKLR*.
50. On substantive fairness, the Claimant argued that the termination was unjustified, noting that he was neither afforded an opportunity to improve his performance nor previously subjected to any disciplinary or performance-related concerns. On this score, he relied on the decisions in *Caroline*



Nthenya Ngila v Kenya Breweries Ltd (2025) eKLR and Maina Mwangi v Thika Coffee Mills Limited (2012) eKLR in support.

51. The Claimant additionally submitted that it was unreasonable and impractical for the Respondent to expect him to reconduct the process, as he could not assume the workload of ten Relationship Officers alongside his other responsibilities.
52. On its part, the Respondent submitted that its case was based on documented acts of negligence supported by evidence, policy provisions, and consistent authority. It further argued that the Claimant's efforts to shift blame to subordinates or deny responsibility were unsubstantiated.
53. The Respondent maintained that it had met the evidentiary threshold under Sections 43(2) and 45 of the *Employment Act* and had demonstrated that the termination was substantively fair, lawful, and valid.
54. In support of its submissions, the Respondent cited the case of James Orwaru Nyaundi v Kilgoris Classic Sacco Limited [2022] KEELC 1176 (KLR), Galgalo Jarso Jillo v Agricultural Finance Corporation [2021] KEELRC 323 (KLR), and Sospeter Kioko Munguti v Nestle Kenya Limited [2013] KEELRC 510 (KLR).
55. On procedural fairness, the Respondent submitted that it fully complied with Section 41 of the *Employment Act*, the rules of natural justice, and its internal disciplinary procedures. It was categorical that the Claimant was given adequate opportunity to understand the allegations, present his defence, and have the same considered, in line with the principles articulated by the Court of Appeal in Postal Corporation of Kenya v Andrew K. Tanui [2019] KECA 489 (KLR).

### **Analysis and Determination**

56. I have considered the pleadings by both parties, the evidentiary material on record, as well as the rival submissions and isolated the following issues for determination:
  - i. Whether the Respondent has demonstrated that there existed a valid and fair reason for terminating the Claimant's employment;
  - ii. Whether the Claimant was accorded procedural fairness prior to termination;
  - iii. Whether the Respondent's Counterclaim is merited; and
  - iv. Whether the Claimant is entitled to the remedies sought.

### **Valid and fair reason for termination?**

57. Under Section 43(1) of the *Employment Act* (Act), the burden lies with the employer to establish the reason or reasons for terminating an employee's employment. Where the employer fails to do so, the termination is deemed unfair within the meaning of Section 45 of the Act.
58. Further, pursuant to Section 45(2)(a) and (b) of the Act, a termination is considered unfair if the employer fails to prove that the reason for termination was valid and fair, and that it related to the employee's conduct, capacity, compatibility, or was based on the employer's operational requirements.
59. In light of these statutory provisions, the Respondent was therefore required to demonstrate that it had a valid and fair reason for terminating the Claimant's employment, and that the reason was connected to his conduct.



60. It is therefore imperative for the Court to examine the reasons advanced by the Respondent in justification of the Claimant's termination from employment, to determine whether they meet the threshold of validity and fairness contemplated under Section 45(2)(a) and (b) of the Act.
61. The letter of termination dated 9<sup>th</sup> July 2021 indicates that the Claimant's employment was terminated on grounds of negligence in the performance of his duties as Branch Manager. In the said letter of termination, it was alleged that the Claimant failed to oversee, verify, and conduct due diligence on four customers, namely, Peter Njoka, Adrian Anunda, Jonathan Kipkemoi Misoi, and Eng. Morris Owiti, thereby exposing the Respondent to financial, legal, and reputational risk.
62. Regarding customer Peter Njoka, the Respondent alleged that the Claimant failed to provide leadership and guidance and did not ensure compliance with the loan application process, thus exposing the Respondent to the risk of proxy funding.
63. The Claimant countered this allegation by stating that the Relationship Officer handling the file had deliberately concealed material information about the client and had admitted as much both in writing and verbally to him, the Head of Business Development, and the Head of Credit.
64. The Claimant further asserted that his role was limited to confirming that the customer visit report had been completed and filed by the Relationship Officers, and that it was not his duty to redo due diligence already undertaken by the seven Relationship Officers under his supervision.
65. He further stated that the Relationship Officer in this case had submitted a customer visit report indicating that she had visited both matrimonial homes of the client, and that the Branch Credit Committee and the Credit Department had verified and approved the proposed security and repayment structure. Accordingly, he had no reason to doubt or flag the transaction.
66. Notably, the Respondent did not dispute that the Claimant's assertions that the Relationship Officer in this case had concealed information about the customer's true identity, and that she had admitted this to him, the Head of Business Development and the Head of Credit vide email. Therefore, the Court finds no reason to doubt the Claimant's position.
67. It is worth noting that Clause 4.5 of the Respondent's Credit Policy Manual assigns the Relationship Officer the responsibility of ensuring the client's genuineness to prevent loans from being advanced to the wrong person.
68. In this case, it is evident that the Relationship Officer, who was tasked with verifying the client's authenticity, had deliberately concealed key information regarding the client's identity. Consequently, any information she provided to the Claimant for further verification and due diligence was inherently unreliable.
69. Given these circumstances, it was unreasonable for the Respondent to hold the Claimant accountable for failing to provide leadership or ensure compliance with the loan process when the officer responsible for verifying the client's identity had actively withheld critical information.
70. Consequently, the Court finds that this was not a valid and fair reason for termination of the Claimant's employment.
71. With respect to customer Eng. Morris Owiti, the Claimant, was accused of failing to follow the laid-down customer residence verification process in the loan application procedure.



72. The Claimant denied this allegation, asserting that he had personally conducted the home visit with the Relationship Officer on 31<sup>st</sup> May 2021 and had shared the photographs in the Credit Committee's WhatsApp group.
73. The Respondent contended that the home visit had been conducted at the final stage of the application process and was done outside the scheduled time.
74. Submitting on this issue, the Respondent stated that the home visit occurred on 31<sup>st</sup> May 2021, after the loan had been approved on 26<sup>th</sup> May 2021. Notably, this assertion did not appear in the Respondent's Response to the Claimant's Claim or in the Notice to Show Cause dated 1<sup>st</sup> July 2021.
75. Additionally, the Respondent did not produce evidence to show that the loan had been approved on 26<sup>th</sup> May 2021, as alleged, before the home visit took place ON 31<sup>st</sup> May 2021. Indeed, RW1 admitted during cross-examination that there was no evidence on record confirming as much.
76. Accordingly, the Court is not persuaded that this ground constituted a valid and fair reason for termination of the Claimant's employment.
77. As regards customer Adrian Anunda, the Claimant was accused of providing false information during the customer application process in order to influence a favourable outcome.
78. Countering this accusation, the Claimant maintained that he had acted in good faith and conducted the necessary due diligence to understand the customer's business, which he believed was located in Eldoret.
79. However, the customer visit report presented in evidence indicates that the customer visit was at Madaraka Shopping Centre.
80. This contradicts the Claimant's assertion that after due diligence, he believed the customer's business was in Eldoret. Indeed, the Claimant did not correlate the due diligence he undertook against the customer visit report on record.
81. In view of the customer visit report signed by the Relationship Officer indicating the visit to have taken place in Madaraka Shopping Centre, it becomes unclear to the Court why the Claimant was of the view that the customer's business was in Eldoret.
82. In light of the foregoing, what becomes apparent is that proper due diligence was lacking on the Claimant's part.
83. On this account, the Court finds that the Respondent had a valid and fair reason to terminate the Claimant's employment.
84. Concerning customer, Jonathan Kipkemoi Misoi, the Claimant was accused of negligence in verifying and conducting due diligence during the customer application process, vide signature of unverified documents, thereby exposing the Respondent to risk.
85. The Claimant admitted to signing the agent referral form on behalf of the Town Branch Manager, explaining that he had done so in good faith and at the request of the Agent Manager, as the Town Branch Manager was away and had handed over her duties to him.
86. While the Claimant may have signed the agent referral form in good faith, he did not indicate, let alone suggest, that he conducted due diligence to verify the information therein, particularly because the branch in question did not fall under his direct supervision. As he was acting on behalf of another branch manager, it was prudent that he verify the accuracy of the information before signing. Evidently,



the Claimant did not do as much thus affording the Respondent a valid and fair reason to terminate his employment.

87. Overall, under this head, the Court finds that while some allegations were substantiated by the Respondent, others were not.
88. Ultimately, applying the standard of proof on a balance of probabilities, the Court is satisfied that the Respondent has demonstrated the existence of valid and fair reasons for the termination of the Claimant's employment.

### **Procedural fairness?**

89. Fair procedure in termination of employment is generally provided for by Section 45(2)(c) of the Act, while Section 41 sets out specific requirements regarding the process an employer must follow when terminating employment.
90. It is undisputed that the Claimant was issued with a show cause letter, responded to it, and attended a disciplinary hearing.
91. The Claimant's objection relates to the composition of the disciplinary panel that heard his case. In this regard, the Claimant contends that he strongly protested the inclusion of Anastacia Kariuki and Samuel Kareithi in the discipline panel, asserting that they had exchanged emails on 14<sup>th</sup> June 2021, implying his involvement in the Peter Njoka/Joseph Ndambiri fraud. The Claimant specifically referred to an email from Anastacia stating: "If it quacks like a duck, walks like a duck, and acts like a duck, then it must be a duck."
92. The Respondent has refuted the Claimant's allegations and maintains that the disciplinary committee was duly and properly constituted in accordance with its internal disciplinary policy.
93. In connection with his grievance regarding the composition of the disciplinary panel, the Claimant also questioned the authenticity of the minutes of the disciplinary hearing, asserting that they omitted his objections concerning the panel's composition. In this regard, he stated that the proceedings were audio-recorded by one Julie Karanja using her mobile phone, but despite his request, he was denied access to the recording on the alleged instructions of Anastacia.
94. During the trial, the Respondent exhibited a copy of the minutes of the disciplinary hearing. It is noteworthy that these minutes were not a verbatim transcript of the audio-recorded proceedings. Moreover, the Respondent did not clarify how and when the minutes were prepared or explain why the transcript of the audio recording was not produced in Court.
95. If, as alleged, the proceedings were recorded using a member of the panel's personal mobile phone, it remains unclear why the Respondent failed to take steps to secure the recording by transferring it to a controlled storage device and preparing a transcript for the record.
96. This omission is significant, given the Respondent's evidential burden under Section 45(2)(c) of the Act to demonstrate that the termination of employment was carried out in accordance with fair procedure.
97. The Claimant's concerns regarding the impartiality of the disciplinary panel could have been easily dispelled had the Respondent produced the original recording of the proceedings.
98. Being the custodian of the disciplinary records, the Respondent's failure to produce the audio recording leads the Court to draw an adverse inference that the minutes presented do not accurately



reflect the proceedings. Consequently, the Court has no reason to doubt the Claimant's assertion that he objected to the panel's composition but his protests were disregarded.

99. It must be appreciated that the mere issuance of a Notice to Show Cause, receipt of a written response, and convening of a disciplinary hearing do not, by themselves, satisfy the requirement of procedural fairness.
100. A fair disciplinary process must encompass the core tenets of natural justice, one of which is that the decision-makers must be impartial and without bias, whether actual, imputed, or apparent.
101. In the present case, the Respondent bore the burden of proving that the disciplinary process was fair in all respects and that the Claimant's case was heard by an impartial panel. Regrettably, this was not the case.
102. On the basis of the foregoing, the Court finds that the Respondent failed to discharge its evidential burden of proving that the termination process met the requirements of procedural fairness.

### **Counterclaim?**

103. In as much as the Respondent has lodged a counterclaim in the sum of Kshs 79,569.39 against the Claimant, RW1 admitted during her testimony in chief that the outstanding loan was Kshs 9,387.45 as at 28<sup>th</sup> April 2025.
104. Cross-examined RW1 confirmed that the guarantors who are the Respondent's staff have been repaying the Claimant's outstanding loan and that she has been effecting deductions to this effect.
105. In view of the above, the court is not satisfied that the Respondent's counterclaim is merited.

### **Reliefs?**

106. Having found that the Respondent has demonstrated that there was a valid and fair reason for terminating the Claimant's employment but failed to demonstrate that the process applied was fair in all respects, the Court awards the Claimant compensatory damages equivalent to two (2) months' gross salary. In making this award, the Court has taken into account the duration of the employment relationship and the Claimant's contributory conduct leading to the termination.
107. Regarding the Claim for salary for nine days and accrued leave pay, the evidence shows that these amounts formed part of the Claimant's terminal dues and were applied towards his outstanding loan. Accordingly, these claims fail.

### **Orders**

108. In the final analysis, judgment is entered in favour of the Claimant against the Respondent, and the Court awards him: -
  - a. Compensatory damages of Kshs 190,000.00, equivalent to two (2) months' gross salary.
  - b. Interest on the sum in (a) at court rates from the date of judgment until payment in full.
  - c. Costs of the suit.
109. The Counterclaim is dismissed with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14<sup>TH</sup> DAY OF NOVEMBER, 2025.**

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**STELLA RUTTO**

**JUDGE**

In the presence of:

For the Claimant Ms. Muli

For the Respondent Ms. Achieng

Court Assistant Elijoy

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.

