

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS  
COURT AT NAIROBI  
CAUSE NO E648 OF 2022**

**KWAME NKURUMAH  
CLAIMANT**

**v**

**STANDARD CHARTERED BANK KENYA LTD  
RESPONDENT**

**EMPLOYMENT AND LABOUR RELATIONS COURT  
JUDGMENT**

1. The Cause was heard on 3 February 2025, 19 March 2025 and 26 May 2025. Kwame Nkrumah (the Claimant) and 2 witnesses called by Standard Chartered Bank Kenya Ltd (the Respondent) testified.

2. The Claimant filed his submissions on 23 July 2025, and the Respondent on 3 September 2025.

**NAIROBI**

3. The Claimant set out the Issues for determination as:

- (i) Whether the Claimant's termination was unfair and unlawful?

(ii) Whether the Claimant is entitled to the prayers sought in the matter.

4. The Respondent identified the Issues for determination as:

(i) Whether the Claimant's termination was fair and lawful?

(ii) Whether the Claimant is entitled to the reliefs sought?

5. The Court has considered the pleadings, evidence and submissions.

**Unfair termination of employment**  
**Procedural fairness**

6. The Claimant asserted that the process followed to terminate his employment was unfair and an affront to justice and equity.

7. In the Memorandum of Claim, the Claimant asserted procedural unfairness because he was not allowed to attend the disciplinary hearing with a colleague of his own choice and because the Disciplinary Committee did not comprise

experts in business bank account opening operations and thus did not understand the issues at stake. According to the Claimant, the process was predetermined to terminate his employment.

8. The Claimant stated the particulars of the procedural lapses in the witness statement, which was adopted as part of the evidence.

9. The Respondent invited the Claimant to a disciplinary hearing through a letter dated 3 December 2021. The letter set out the allegations against the Claimant and informed him of his right to be accompanied during the meeting. It was up to the Claimant to get a colleague to accompany him during the hearing.

10. There was no evidence before the Court that his choice of colleague was denied entry or participation during the hearing.

11. The Claimant attended the hearing on 9 December 2021, and he was allowed to make representations.

12. The Disciplinary Panel recommended termination of employment, and the Respondent issued a termination letter on 22 February 2022.

The letter notified the Claimant of the right to appeal.

13. Sections 35(1) and 41 of the Employment Act outline the basic elements of procedural fairness. The Respondent informed the Claimant of the allegations to confront and gave him a chance to make representations. He was informed of the right to be accompanied during the hearing and of the right of appeal.

14. On the question of expertise and experience of the Disciplinary Panel, the Claimant did not present any evidence that coming from a different department of the Bank, they did not

understand the operations of the bank or that their participation prejudiced his case.

15. The Court is satisfied that the process leading to the termination of the Claimant's employment was fair.

16. Sections 43 and 45 of the Employment Act require the employer to prove the reasons leading to the termination of employment as valid and fair.

17. The Respondent gave 4 reasons for terminating the Claimant's contract, and in brief, these were: *failing to review an employee's access rights, failing to review account opening forms, failing to challenge a request for change of account from Avangrid to Sunflag and KENHA, and failing to challenge a request for change of account name by Avangrid to Amspex.*

18. These are the reasons the Respondent was expected to prove as fair and valid. In an

endeavour to discharge the burden, the Respondent called 2 witnesses.

19. The Respondent's first witness was an investigator and he testified that around February 2021, the Directorate of Criminal Investigations conducted investigations into an account held by an entity known as Avangrid Energy Group Ltd.

20. According to the witness, the Respondent's investigations established that Avangrid had applied for the opening of accounts in the names of Sunflag Textile and Knitwear Mills Ltd, Kenya National Highways Authority (KENHA) and Amspex Group.

21. The witness testified that 2 of the Claimant's colleagues Emerald Mutahi (supervisee) and Martin Guchu had used their system rights to facilitate the irregular opening of the accounts without the right documentation.

22. According to the witness, it was the Claimant's role as Mr Mutahi's supervisor in the Customer Due Diligence department to review his access rights, and that he failed to review the rights after Mr Mutahi was deployed to his department and assumed the role.

23. The Claimant's testimony was that when the concerned employees moved from the Customer Due Diligence role to the new role, he (the Claimant) reviewed and deleted the access rights through the OneCert system.

24. According to the Claimant, he revoked Mr Mutahi's access rights and that upon the review, it was the responsibility of the Business Operations Risk Manager to align the access rights in terms of the new role.

25. The Claimant was questioned at some length on the review of access rights during the disciplinary hearing.

26. The minutes suggest the Claimant never responded clearly to the queries. He was informed that he could rely on an audit trail to confirm whether he had in fact reviewed the rights of Mr Mutahi, but he did not pursue the lead.

27. On the state of the evidence on record, the Court finds that it is more probable that the Claimant did not review the access rights of Mr Mutahi, a duty which fell on him and not the Business Operations Risk Manager.

28. The Respondent's first witness also stated that investigations around October 2020 established that Avangrid had applied between April to June 2020 for accounts to be opened in the names of Sunflag, KENHA and Amspex.

29. The details established were that on 23 April 2020, Mr Mutahi onboarded Avangrid onto the Respondent's system. The onboarding was made without full requisite documentation.

30. Soon thereafter, on 28 April 2020, Avangrid requested the opening of sub accounts in the names of Sunflag and KENHA without requisite documentation.

31. According to the Respondent, the Claimant approved the request for opening of the subaccounts.

32. In the meantime, the Claimant's supervisee continued to process the onboarding, and at some point, the account names were changed/opened on 11 May 2020. The Claimant was copied on the relevant emails.

33. A copy of the investigations report produced in Court indicated that the Claimant admitted reviewing the request by Avangrid for accounts opening.

34. The Claimant denied any involvement in the account opening process, allegedly because he went on leave on 27 April 2020 and only returned around 13 May 2020.

35. The Respondent's witnesses denied that the Claimant was on leave. The Claimant did not place before the Court any records to show that he was on leave.

36. In the same vein, the Respondent, as an employer is the custodian of employee records. It did not place before the Court the Claimant's leave records.

37. The Court is therefore unable to determine whether the Claimant was on leave at the material time or not.

38. What the Court can determine is that the Respondent did not produce any evidence that the Claimant was complicit in the account opening process for the Avangrid account and that this reason constituted a valid and fair reason to terminate the contract.

39. The last 2 reasons for the termination of the Claimant's employment related to the request for a change of an account name from (or

creation of sub-accounts) Avangrid to Sunflag and KENHA.

40. The Respondent asserted that, as the Line Manager, the Claimant had a role to play. The Claimant maintained that since he was on leave when the enquiries were made, he could not be culpable for any irregularities or failures since he was only copied on the email communication.

41. The Court already made a finding that it did not have evidence to conclude whether the Claimant was on leave or not during the material time.

42. However, copies of documentation (Sales Datamart Input Details) used to apply for the account opening/change of name by Avangrid and produced in Court bore the Claimant's signature and date of 28 April 2020.

43. The Claimant admitted during the investigations that the signatures were his and that he would review applications for new accounts, but

recanted the admission during the disciplinary hearing.

44. The forms were date-stamped 28 April 2020. The account opening supporting documents did not show any nexus between Avangrid, Sunflag and KENHA a public body.

45. The Claimant did not explain the change of position from what he told the investigations team and the Disciplinary Committee to the Court.

46. The Court can, therefore, find that even if the Claimant were on leave, he was involved in the change of account process on 28 April 2020 when the documents relied on had red flags all over, for how could a private entity apply to open an account in the name of KENHA, a public body?

47. Overall, and based on the evidence before the Court, the Court comes to the view that the Respondent had and has proved valid and fair

reasons to terminate the Claimant's employment.

### **Lost income**

48. The Claimant prayed to be awarded the lost income he would have earned if he worked up to retirement or the end of the contract.

49. The Claimant failed to lay an evidential or legal foundation to this head of the claim, and relief is declined.

### **Certificate of Service**

50. A certificate of service is a statutory entitlement, and the Respondent should issue one to the Claimant if it was not issued.

### **Conclusion and Orders**

51. The Court finds and declares that the termination of the Claimant's employment was fair.

52. Despite the finding, the Court orders the Respondent to issue the Claimant with a

Certificate of Service within 21 days, if none was issued.

53. Each party to bear own costs.

**Delivered virtually, dated and signed in Nairobi on this 13<sup>th</sup> day of November 2025.**

**EMPLOYMENT AND LABOUR RELATIONS COURT**  
Radido Stephen, MCIAB  
**Judge**

**Appearances**

For Claimant

Ogeta Oluoch  
& Co.  
Advocates

For Respondent

Oraro & Co.  
Advocates

Court Assistant

Wangu



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