



**Opondo (Moi) v Kenya Railways Staff Retirement Benefits Scheme & 3 others  
(Cause E790 of 2024) [2025] KEELRC 3470 (KLR) (4 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3470 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E790 OF 2024  
ON MAKAU, J  
DECEMBER 4, 2025**

**BETWEEN**

**MUNAI ISAAC OPONDO (MOI) ..... CLAIMANT**

**AND**

**KENYA RAILWAYS STAFF RETIREMENT BENEFITS SCHEME .... 1<sup>ST</sup>  
RESPONDENT**

**KENYA RAILWAYS CORPORATION ..... 2<sup>ND</sup> RESPONDENT**

**RETIREMENT BENEFITS AUTHORITY ..... 3<sup>RD</sup> RESPONDENT**

**KENYA POWER AND LIGHTING COMPANY ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

**Introduction**

1. This Ruling relates to the Plaintiff/Applicant's Notice of Motion dated 3<sup>rd</sup> June 2024 seeking the following orders:-
  - a. That the defendant in close liaison with the Applicant, be and is hereby directed to regularize the grievants Account with the Interested Party with immediate. [sic]
  - b. That the Plaintiff be allowed access to and or to retain the house from which he was un-procedurally evicted from or be allocated another, equivalent to the class he was entitled to by the time of his eviction subject to the said applicant continued complying with the terms of the tenancy and or as may be varied by the Hon Court.
  - c. That costs are in the suit.
2. The motion was supported by the Applicants Affidavit sworn on the even date and it was opposed by the 3<sup>rd</sup> Defendant/Respondent vide a Replying Affidavit sworn on 22<sup>nd</sup> May 2025 by its Legal Officer



Mr. Antony Kiarahu. The Motion was disposed of by written submissions but only the Applicant and the 3<sup>rd</sup> Respondent filed.

### **Factual background.**

3. The Applicant is a retiree/pensioner who served the 2<sup>nd</sup> Respondent for Fourteen years. During his tour of duty, he was housed by the employer at Ngara Railway Quarters Block 22D where he lived until he was evicted on an unspecified date at 5am. As at the time of the eviction, he had allegedly lived in the house for Twelve years.
4. He averred that the eviction was malicious, unlawful and unjustified. He further averred that he lost property and others were destroyed during the eviction from the house. He also averred that after the eviction the Respondents allocated the house to themselves contrary to his tenancy Agreement and continues to use his utility accounts causing the Electricity and water Bills has accrued to over Kshs. 500,000/-.
5. He further averred that the Respondents elected to under pay his monthly pension since November 2006. He contended that he complained to the 3<sup>rd</sup> Respondent Chief Executive Officer but the matter was never given the due attention and he filed suit before this court but he withdrew it and referred the dispute to the Rent Restriction Tribunal.
6. The tribunal declined jurisdiction and referred him to the High Court because he was no longer living in the house. Therefore, he filed the plaint herein seeking a total of Kshs. 7,430,282/- made up of pension underpayment from November 2006, commission on cheques for Kshs. 26,067,740/-, ordinary damages, special damages and aggravated damages.
7. The 3<sup>rd</sup> Respondent, on the other hand averred that this court has no jurisdiction to determine this suit as it relates to a decision by the 1<sup>st</sup> Respondent and the Applicant has not exhausted the statutory procedure provided by section 46 and 48 of the *Retirement Benefits Act*.
8. Having considered the Plaint, the Motion, Affidavits and the written submissions filed, the following issues arose for determination:-
  - a. Whether the court lacks jurisdiction to entertain the Motion.
  - b. Whether the court should grant the orders sought in the Motion

### **Analysis**

#### **Jurisdiction**

9. The 3<sup>rd</sup> Respondent contended that the court lacks jurisdiction to deal with the claim of pension underpayment citing section 46 and 48 of the Retirement Benefits authority Act Section 46(1) of the Act provides that:-

“any member of a scheme who is dissatisfied with a decision of the manager, administrator, custodian or trustees of the scheme may request, in writing that such decision be reviewed by the Chief Executive Officer with a view to ensuring that such decision is made in accordance with the provisions of the relevant scheme rules or the Act under which the scheme is established.”



10. Section 48 then provides that:-

- “(1) (1) Any person aggrieved by a decision of the Authority or of the Chief Executive Officer under the provisions of this Act or regulations made thereunder may appeal to the Tribunal within Thirty days of the receipt of the decision.
- (2) where any dispute arises between any person and the Authority as to the exercise of the powers conferred upon the Authority by this Act, either party may appeal to the Tribunal in such manner as may be prescribed.”

11. The 3<sup>rd</sup> Respondent’s Replying Affidavit and submissions, in my view did not answer to the Applicants notice of Motion but the main suit. In fact the Motion did not seem to seek any orders against the 3<sup>rd</sup> Respondent. The Motion sought orders against his landlord and the Interested Party. The basis of the orders sought is a tenancy relationship between the Applicant and the 1<sup>st</sup> Respondent. There is no employment relationship between the two parties.

12. The Applicant acknowledged that he filed another similar suit before this court and withdrew it upon directions of the court that it had no jurisdiction. He has come back to the same court without any demonstration that the law on the jurisdiction has changed. The jurisdiction of this court is donated by section 12 of the [Employment and Labour Relations Court Act](#) read with Article 162 (2)(a) of [the Constitution](#).

13. In brief the Court’s jurisdiction is anchored in an employment and/or labour relationship and connected matters. In this case the Applicant has not demonstrated that there is such relationship between him and the 1<sup>st</sup> and Interested Party. Consequently, I find that I have no jurisdiction to grant the orders sought vide the Notice of Motion herein.

**conclusion.**

14. I have found that the orders sought by the Applicants are outside the jurisdiction of this court as donated by section 12 of the [Employment and Labour Relations Court Act](#) as read with Article 162 (2) (a) of [the Constitution](#). In the circumstances I decline jurisdiction over the Notice of Motion dated 3<sup>rd</sup> June 2024 and strike it out with costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN OPEN COURT AT NAIROBI THIS 4<sup>TH</sup> DAY OF DECEMBER 2025.**

**ONESMUS MAKAU**

**JUDGE**

Appearance:

Munai the Claimant in person

Olieti for the 1<sup>st</sup> Respondent

Maina for the 3<sup>rd</sup> Respondent

Owano for the Interested Party

No appearance for the 2<sup>nd</sup> Respondent

