



REPUBLIC OF KENYA



KENYA LAW
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**Sawe v Lenarum & 2 others (Cause E026 of 2023)
[2026] KEELRC 242 (KLR) (30 January 2026) (Judgment)**

Neutral citation: [2026] KEELRC 242 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
CAUSE E026 OF 2023
J RIKA, J
JANUARY 30, 2026**

BETWEEN

KIPRONO SAWE CLAIMANT

AND

DANIEL LENARUM 1ST RESPONDENT

GABRIEL KIMEMIA 2ND RESPONDENT

**INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION 3RD
RESPONDENT**

JUDGMENT

1. The Claimant filed his Statement of Claim, dated 28th November 2023.
2. He states that he was employed by the 3rd Respondent Commission, between 21st June 2022 and 20th September 2022, as a Deputy Returning Officer, Bomet County.
3. The 1st Respondent is described as the Bomet County Regional Office Election Manager, while the 2nd Respondent is the Accounting Officer, in the same Office.
4. The Claimant was to be paid Kshs. 4,000 daily. He was entitled to Kshs. 11,000 daily for 15 days in the entire period worked, as reimbursement for transport.
5. The Claimant worked for the entire period of 3 months, aggregating 92 days.
6. He was entitled to Kshs. 368,000, and transport reimbursement of Kshs. 165,000- total Kshs. 533,000.
7. The Respondents paid the Claimant Kshs. 240,000, being the salary for 60 days. He claims the balance of Kshs. 293,000.



8. He claims the balance, as well as general damages for breach of the employment contract. He prays for costs, interest and any other suitable relief.
9. The Respondents filed their Statement of Response dated 13th March 2024. It is denied: that, the Claimant was employed by the Respondents for 3 months; that, he was entitled to Kshs. 11,000 for 15 days in transport reimbursement; that, he was entitled to remuneration of Kshs. 368,000; that, he worked for 92 days; that, he is owed Kshs. 293,000; and, that the Respondents breached the Claimant's contract.
10. Without prejudice to the foregoing, the Respondents state that the Claimant was employed for 60 days, not 90 days. The wages were payable for days worked, which did not include weekends. Payment of Kshs. 240,000, at the rate of Kshs. 4,000, covered the full 60 days.
11. The contract did not make provision for transport reimbursement. The Claim has no merit. The Respondents urge the Court to dismiss the Claim with costs.
12. The Claimant filed a Reply to the Statement of Response, dated 6th June 2024. He basically denies the contents of the Statement of Response, emphasizing that the contract was for 3 months, and no day was excluded. Weekends and holidays were included. The 3rd Respondent's schedule was loaded, and the Claimant was required to work on holidays and weekends. The 3rd Respondent issued a workplan, which covered holidays and weekends.
13. The Claimant gave evidence, and closed his evidence, on 9th October 2024. The 2nd Respondent gave evidence on 24th July 2025, closing the hearing. The Claim was last mentioned on 11th November 2025, when the Parties confirmed filing and exchange of their submissions.
14. The Claimant relied on his Witness Statement dated 28th November 2023, and documents [1-3]. The Witness Statement is a replica of the Statement of Claim, as summarized above.
15. Cross-examined, he told the Court that his contract stipulated he would be paid for each day worked. He was recruited for 2022 elections. His duties were defined in the contract. He received nomination papers. He tallied results for the election of Governor and Woman Representative. Results were announced on 13th August 2022.
16. His role went beyond declaration of results. Contract states he could be assigned any other duty. He had post-election work. He prepared reports. The contract expired on 20th September 2022.
17. The transport benefit was provided for in a circular, not in the contract. There were minutes to show that the Claimant worked over the weekends. He received payment for 2 months, at Kshs. 240,000. Returning Officers from other Counties, such as Kericho, were paid for 90 days.
18. Redirected, the Claimant told the Court that the 3rd Respondent's programme was running all through, including weekdays and weekends. The minutes and work records are held by the Respondents. The Claimant did not have access to the records.
19. Regional Accountant, Gabriel Ngugi Kimemia, relied on his Witness Statement dated 13th March 2024, and documents exhibited by the Respondents [1-6] in his evidence-in-chief.
20. Cross-examined, Kimemia told the Court that the Claimant had a written contract. It was the only contract. It was from June to September 2022. This is a period of 90 days. He worked daily, for 60 days, exclusive of weekends.
21. The Claimant was paid Kshs. 240,000 as shown in the payment voucher. He did not work, after 31st August 2022. There was no attendance register. His supervisor determined his work schedule. The



supervisor orally informed Kimemia, that the Claimant worked for 60 days. He deputized County Returning Officer. Kimemia was not aware how many polling centres were in the County. The County Returning Officer would facilitate the Claimant on transportation.

22. On redirection, Kimemia restated that the Claimant did not work on weekends and weekdays. He was paid Kshs.4,000 daily, and worked for 60 days. He did not work beyond 31st August 2022.
23. The issues are whether the Claimant was contracted to work for 60 or 90 days; whether Kshs. 240,000 paid to him represented the totality of his contractual remuneration; and whether he merits the prayers sought.

The Court Finds: -

24. Clause 1 of the letter appointing the Claimant as Deputy Returning Officer, specifically states that he was engaged for a period of 3 months, from 21st June 2022 to 20th September 2022.
25. This is clearly a period of 90 days. There was a specific commencement date, and a specific expiry date. The contractual period was 90 days.
26. Clause 6 on remuneration states that the Claimant would be paid a consolidated salary of Kshs. 4,000 for each day worked.
27. Clause 8 emphasizes that the contract was for 3 months, but could be terminated earlier, on grounds of poor performance or integrity.
28. There is no evidence that the contract was terminated earlier than the agreed fixed period of 90 days, on the ground of poor performance or integrity.
29. The days worked would be in the understanding of the Court, the period stated under the contract, of 90 days.
30. The assertion by the Respondents that the Claimant did not work on weekends and holidays, is a unilateral and unwritten variation of the contract.
31. The assertion that the Claimant worked only for 60 days, and that his contract expired on 31st August 2022, is not supported by the contract exhibited before the Court. The expiry date under the contract was 20th September 2022.
32. It was in violation of the contract executed by the Parties, for the Respondents to reduce the period to 60 days, and rework the expiry date to 31st August 2022.
33. If the intention was that the Claimant would work for 60 days, nothing could have been easier than for the contract to say so.
34. It is the conclusion of the Court that the Claimant merited payment of Kshs. 4,000 daily for 90 days, amounting to Kshs. 360,000, and Kshs. 240,000 paid to him, was an underpayment.
35. The contract does not provide for transport reimbursement. The Claimant did not avail to the Court any circular issued by the Respondents, awarding him this benefit. The claim for Kshs. 165,000 as transport reimbursement is declined.
36. The contract was executed between the Claimant and the 3rd Respondent through its CEO, Marjan Hussein Marjan. It was not necessary to join the 1st and 2nd Respondents, who like the Claimant was, are Employees of the 3rd Respondent. The 1st and 2nd Respondents do not share employment liability with the 3rd Respondent.



37. The Claim against the 1st and 2nd Respondents is struck out.
38. The 3rd Respondent acted in breach of the contract executed with the Claimant. The Claimant discharged his contractual obligation, but the 3rd Respondent appears to have engaged in unilateral and oral variation of the contract.
39. Under the *Employment Act*, the Claimant would be entitled to payment of his withheld salary, but also to compensatory award, for unfair and unlawful termination.
40. The 3rd Respondent prematurely considered the Claimant's contract to have ended on 31st August 2022, and proceeded to pay him less than he merited.
41. As observed elsewhere in the Judgment, the contract provided for specific grounds, upon which the contract could be terminated prematurely. None of these grounds was shown to have informed the 3rd Respondent's decision to reduce the contractual period.
42. The Claimant merits compensation for unfair and unlawful termination.
43. He is granted balance of his salary at Kshs. 120,000, and compensation equivalent of 30 days' salary for unfair and unlawful termination, at Kshs. 120,000.
44. An Employee's salary has statutory protection, under Sections 17 and 18 of the *Employment Act*. It must be paid when due. When not paid, and is subject of recovery proceedings, the Trial Court should grant interest from the date of default. He is granted costs, and interest at court rate, from the date of default, 20th September 2022.

In Sum, it is Ordered: -

- a. The Claim against the 1st and 2nd Respondents is struck out.
- b. The 3rd Respondent shall pay to the Claimant balance of his salary at Kshs. 120,000 and compensation equivalent of 30 days' salary for unfair and unlawful termination at Kshs. 120,000- total Kshs. 240,000.
- c. Costs to the Claimant.
- d. Interest granted at court rate, from the date of default, 20th September 2022 until payment is made in full.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT KERICHO, UNDER RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 30TH JANUARY, 2026.

JAMES RIKA

JUDGE

Court Assistant: Emmanuel Kiprono

Yegon & Mungai Advocates for the Claimant

Mutai Oduor & Company Advocates for the Respondents

