



REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS
COURT OF KENYA AT NAIROBI
CAUSE NO. E807 OF 2025

GEORGE KIMANI MWANGI.....**CLAIMANT**

VERSUS

OMOH HOMES

LIMITED.....**RESPONDENT**

JUDGMENT

1. The Claimant instituted this suit through a Memorandum of Claim dated 22nd August 2025, seeking judgment against the Respondent for:

- (i) A declaration that the Respondent's actions amounted to unlawful and unfair labour practices.

- (ii) A declaration that the Respondent's actions amounted to constructive dismissal.
- (iii) Kshs. 554,909.28 as particularised in paragraph 6.
- (iv) General damages for unlawful and unfair dismissal.
- (v) Exemplary and Punitive Damages.
- (vi) Interest on (II) above.
- (vii) Cost of the suit.
- (viii) Any other relief the court may deem fit to grant.

2. The Claimant averred that between 1st October 2024 and 20th December 2024, the Respondent employed him as a Creative Director at a gross salary of Kshs. 138,727.32, as particularised in the letters of employment. His contract of employment provided for a one-year term, commencing on 1st October 2024 and terminating on 30th September 2025, and was renewable on a performance basis.

3. The Claimant's case was that he diligently worked for the Respondent without any complaints or warnings whatsoever throughout the employment period. He was ready to continue with the services until the end of his contract on

30th September 2025. However, he worked for only three (3) months, and the Respondent did not pay his full salary for the said three months. According to the Claimant, the Respondent's actions amounted to unlawful and unfair labour practice because they:

- (a) Engaged him under a written contract of employment with no intention of honouring the same.
- (b) Failed to pay him the agreed monthly salary for the entire duration of employment.
- (c) Deceived him into rendering services under a false pretence of a legitimate employment opportunity.
- (d) Created a hostile and exploitative work environment by continuously delaying or avoiding communication on salary payments.
- (e) Subjected him to economic hardship, emotional distress and reputation injury by fraudulently inducing him into a fake non-functional employment setup.
- (f) Intentionally caused hardship to him.
- (g) Unfairly and irregularly terminated his employment by failing to pay his salary.

(h) Destroyed his legitimate expectations arising from the contract of employment.

4. It was the Claimant's averment that he relies on the provisions of the Constitution of Kenya, the Employment Act, Cap 226 Laws of Kenya and the ILO Termination of Employment Convention No. 158 of 1982. He prayed that this Court be pleased to issue him salary arrears of Kshs. 416,181.96 for October to December 2024, and one month's salary in lieu of notice at Kshs. 138,727.32, totalling to Kshs. 554,909.28. He asserted that he issued a demand and notice of intention to sue to the Respondent, but they have refused to make good his demands.

5. The Respondent failed to enter appearance in the case and the matter proceeded as formal proof.

6. The Claimant (CW1) testified in Court that he is a design creative. The Respondent employed him after rigorous interviews, including an interview by an employment agency and then by the Respondent's CEO. He stated that he was

asked to give his don'ts and later began working on 1st October 2024. CW1 produced the contract, witness statement, bundle and list of documents as his evidence. He noted that he was not the only employee at the Respondent and that he supervised 22 employees. The CEO would either approve their work or ask that they amend the work. He reiterated that he was not paid, as he never received any salary and that the CEO kept assuring them that the money was on the way. He further testified that he worked in October, November and December 2024, and asked the Court to grant him compensation and the salary due to him.

7. Counsel for the Claimant submitted before the Court that whereas the Claimant worked for three months and spent his time, effort and available resources, he was not paid. The Respondent's actions have caused the Claimant financial distress, warranting payment of damages as pleaded. They prayed that the suit be allowed with costs.

Disposition

8. The Claimant was a design creative who was engaged by the Respondent but sadly was left to fallow merely a month into

his contract. The Respondent had offered him a contract wherein his monthly salary was Kshs. 138,727.32 and after the Respondent failed to pay his salary in full for the period he worked for it before he opted to resign. He asserted that the Respondent *inter alia*

- i. Deceived him into rendering services under a false pretence of a legitimate employment opportunity;
- ii. Created a hostile and exploitative work environment by continuously delaying or avoiding communication on salary payments;
- iii. Subjected him to economic hardship, emotional distress and reputation injury by fraudulently inducing him into a fake non-functional employment setup.
- iv. Intentionally caused him hardship.
- v. Unfairly and irregularly terminated his employment by failing to pay his salary.
- vi. Destroyed his legitimate expectations arising from the contract of employment.

9. This was in the eyes of the Court akin to the matters falling in the realm of constructive dismissal. He neither pleaded it nor sought relief for it. He instead seeks his salary arrears of Kshs. 416,181.96 for October to December 2024, and one month's salary in lieu of notice at Kshs. 138,727.32, totalling to Kshs. 554,909.28. The Court in considering the weight of his claim cannot deny him these sums as he diligently rendered service to the Respondent who failed to make regular and accurate salary payments and in addition forced him to resign his employment. This therefore means the Claimant's case is successful to the extent he recovers the following in terms of reliefs:-

- a. salary arrears October-December 2024 - Kshs. 416,181.96
- b. one month's salary in lieu of notice - Kshs. 138,727.32
- c. costs of the suit
- d. interest at 14% pa on the sums above from the date of judgment till payment in full.

Orders accordingly.

Dated and delivered at Kisumu this 10th day of March

2026

**Nzioki wa Makau, MCI Arb.
JUDGE**

Original