



**Ondunyi v Labba Security Services (K) Limited Former SAK Security Services Ltd
(Cause 1975 of 2015) [2026] KEELRC 926 (KLR) (16 April 2026) (Judgment)**

Neutral citation: [2026] KEELRC 926 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1975 OF 2015
CN BAARI, J
APRIL 16, 2026**

BETWEEN

PATRICK NDIKA ONDUNYI CLAIMANT

AND

**LABBA SECURITY SERVICES (K) LIMITED FORMER SAK SECURITY
SERVICES LTD RESPONDENT**

JUDGMENT

Introduction

1. In a Memorandum of Claim dated 5th November, 2015, and filed in court on even date, the Claimant sued the Respondent seeking a sum of Kshs. 479,140.95/- comprising salary for days worked in April 2015, pay in lieu of notice, severance pay, leave days dues, underpayments, pay in lieu of public holidays, and pay on account of rest days. The Claimant also seeks costs of the suit and interests thereon.
2. The suit was earlier dismissed for want of prosecution and later reinstated on application by the Claimant.
3. In a Statement of Defence dated 21st November, 2022, the Respondent denied the Claimant's claim, and further averred that the Claimant was never at any time its employee.
4. The Claimant's case was heard on 8th November, 2023, and concluded on 1st December, 2025, when he tendered his testimony in support of his case, adopted his witness statement, and produced his list and bundle of documents as exhibits in the matter.
5. The Respondent did not present a witness in defense, and after several adjournments at the Respondent's instance, the court proceeded to close the Respondent's case and directed parties to file submissions.
6. Submissions were filed for the Claimant and have been duly considered.



The Claimant's Case

7. The Claimant states that he was employed as a daytime security guard on 3rd November 2005, earning Kshs. 2,500 per month. He avers that he worked diligently without any misconduct or warnings until 18th March 2015, when his employment was terminated without notice.
8. It is his case that he was not paid for 18 days worked or given any terminal benefits, and that after reporting the matter to the Ministry of Labour at Nyayo House, he was advised to seek help from a trade union, but this was not possible on the premise that the Respondent's employees had been prohibited from joining one.
9. It is his case that while seeking assistance, he engaged a labour agency called Labour & Wages Advisory Agents, which took up his case and attempted to resolve the dispute with the Respondent, but the Respondent refused to pay his outstanding salary and terminal benefits.
10. The Claimant states that at the time of his unlawful termination, he had worked for 18 days without pay and claims Kshs.6,771. He also claims one month's salary in lieu of notice and, having worked for 9 years without NSSF contributions, seeks severance pay equivalent to 144 days.
11. The Claimant further claims payment for 189 days of unpaid annual leave, 432 days worked without rest days, and underpayment of wages for two years. Additionally, the Claimant claims Kshs.74,435 for working 99 public holidays without double pay.
12. The Claimant finally asks the court to compel the Respondent to pay his unpaid salary and all terminal benefits.
13. On cross-examination, the Claimant told the court that he was employed by SAK Security and that he had in his possession employment records. He avers that he has before the court a letter dated 3rd November, 2005, which he confirms reads 2026, which says that the identity card had been retained by the author. He states that the letter is dated 2005, not 2026.
14. The Claimant testified that he was paid in cash and had no job identity card.
15. It is his prayer that the court grant the relief in his statement of claim.

The Respondent's Case

16. The Respondent denies ever employing the Claimant as a day watchman in November 2005 or at any other time, and further denies that it paid or offered him the stated salary. The Respondent further states that no employment contract was signed with the Claimant, and that it holds no employment records relating to him.
17. It is the Respondent's assertion that it was only incorporated in 2012 and is not affiliated with S A K Security Services, which the Claimant referenced. Additionally, the Respondent argues that the Claimant has no evidence of employment, such as a contract, payment records, NSSF account, payslips, or company identification linking him to the Respondent.
18. The Respondent maintains that all its employees are paid through cheques or bank accounts, which would apply if the Claimant had indeed worked for the company.
19. The Respondent contends that the documents presented by the Claimant are merely standard application forms and an unverifiable letter, allegedly signed by an unknown individual not associated with the company. It further argues that another letter submitted by the Claimant lacks the Respondent's official stamp and was never received.



20. The Respondent maintains that it never employed the Claimant in any capacity and therefore could not have terminated his employment in April 2015. It further asserts that the claim is time barred under the law and should be dismissed with costs. Additionally, it denies all the Claimant's allegations and the particulars of the claim in their entirety.

Analysis and Determination

21. The issues that fall for determination are:-
- i. Whether an employment relationship existed between the Claimant and the Respondent, and if so,
 - ii. Whether the Claimant's termination was unlawful
 - iii. Whether the Claimant is entitled to the remedies sought
 - iv. Whether the claim is time-barred.

Whether an employment relationship existed between the Claimant and the Respondent

22. The Claimant's position is that he was employed by SAK Security, which he argues was later changed to Labba Security Service Limited sometime in 2010 or 2012. He maintains that he continued serving until 2015 when he was unfairly terminated.
23. The primary burden of proving the existence of an employment relationship lies with the Claimant/employee pursuant to Section 47(5) of the Employment Act. It is only upon the employee establishing basic evidence suggesting employment that the burden shifts to the employer to rebut the claim. In *Zamzam Wholesalers Limited v Otieno* [2024] KEELRC 13453 (KLR), the Court held that the employee bears the burden of proof under Section 47(5) of the Employment Act that there was employment and was unfairly terminated by the employer before shifting to the employer to demonstrate that the termination was lawful.
24. The person alleging employment must thus provide evidence such as a written contract of employment, pay slips or payment records, work schedules or work instructions for the court to require the Respondent/employer to disapprove or clarify the nature of the relationship and to generally rebut the claim.
25. The Claimant herein alleges employment by the Respondent from 2005 to 2015. He, however, admitted under cross-examination that he was employed by SAK Security, and not the Respondent. Further, the documents that the Claimant produced are marred by inconsistencies.
26. It is also not lost on the court that the Claimant lacked corroborative evidence such as payslips, NSSF records, or identification linking him to the Respondent, and even if the Respondent changed names from SAK to Labba Security, no evidence from the Business Registration Services (BRS) was produced as proof of the said changes.
27. Further, while Section 10 (7) of the Employment Act places the burden on an employer to produce employee records, this only arises where the employee first establishes a prima facie employment relationship. In *Mary Mmbone Mbayi Vs Chandubhai Patel & Another* (Industrial Cause No. 761 of



2011), cited in Kenya Union of Commercial Food and Allied Workers V Mwana Black Smith Limited [2013] KEELRC 502 (KLR), the Court stated that:-

“ Even in cases where there may be no documentary proof of an employment relationship or termination thereof, the Claimant retains the burden of proving their case through viva voce evidence.”

28. In my considered view, without credible evidence linking the Claimant to the Respondent, the court cannot impose liability. While the Claimant may have worked for a security firm, he failed to establish that the Respondent was that employer.
29. In light of the foregoing, I find and hold that the Claimant failed to prove, on a balance of probabilities, that he was an employee of the Respondent.
30. The Claimant's entire claim therefore fails and is hereby dismissed with no orders on costs.
31. The other issues herein fall by the wayside.
32. Judgment accordingly.

SIGNED, DATED, AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 16TH DAY OF APRIL, 2026.

C. N. BAARI

JUDGE

Appearance:

Mr. Babu present for the Claimant

N/A present for the Respondent

Ms. Esther S- C/A

