



**Kenya Plantation and Workers Union v Delmonte Kenya Limited (Cause 1428 of 2018) [2026] KEELRC 1174 (KLR) (30 April 2026) (Judgment)**

Neutral citation: [2026] KEELRC 1174 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1428 OF 2018**

**J RIKA, J**

**APRIL 30, 2026**

**BETWEEN**

**KENYA PLANTATION AND WORKERS UNION ..... CLAIMANT**

**AND**

**DELMONTE KENYA LIMITED ..... RESPONDENT**

**JUDGMENT**

1. This Claim was filed way back on 8th May 2018.
2. It concerns parties' Collective Bargaining Agreement for the period 1st July 2015 to 30th June 2017, on Seasonal Employees.
3. The Claimant's position is that Seasonal Employees were not paid 1 rest day, for every 7 days worked, unlike their permanent colleagues.
4. The Claimant urges the Court to find that Seasonal Employees are entitled to 1 rest day in a week.
5. Reasons wherefore, the Claimant prays for Judgment against the Respondent as follows: -
  - a. Declaration that the Respondent is in violation of the CBA and the *Employment Act*, by failure to grant Seasonal Employees 1 rest day in a week.
  - b. The Respondent is compelled to pay Seasonal Employees rest days from 2017 to-date.
  - c. Costs.
  - d. Interest.
  - e. Any other suitable relief.
6. The Respondent filed its Statement of Response on 30th July 2018.



7. Its position is that, Seasonal Employees are employed when work is available. They are paid an hourly rate. The rate is consolidated. There is a ceiling of 46 hours weekly.
8. It is agreed by the Parties through the CBA, that Seasonal Employees are paid a consolidated hourly rate. It would be illogical to go beyond this rate, and pay Seasonal Employee rest days.
9. Both Seasonal and Permanent Employees are otherwise entitled to company house; overtime; WIBA benefits; transport; uji for breakfast; leave traveling allowance; incentive pay; and service pay.
10. The Respondent submits that the Claimant can only contest the CBA, if the terms and conditions in the CBA have been violated. There is no rest day clause in the CBA for Seasonal Employees, which has been flouted, and the Claim is misplaced. The Respondent urges the Court to dismiss the Claim with costs.
11. 2 Employees, Dominic Nzioka and George Wanyonyi gave evidence for the Claimant, as did Human Resource Manager, Gideon Kimutai for the Respondent. Hearing opened and closed on 6th February 2026, during the Nairobi E&LRC service week. The Claim was last mentioned before the Court on 10th March 2026, when parties confirmed /undertook filing and exchange of their final submissions.
12. Dominic told the Court that he has worked for the Respondent as a Driver, for 25 years. He adopted his witness statement and documents filed by the Claimant [1-14] in his evidence-in-chief.
13. He told the Court that he is still a Seasonal Employee of the Respondent. The pay structure disadvantages him. Hourly rate for both Seasonal and Permanent Employees was Kshs. 113.50. His colleague James Obiero was likewise a Seasonal Employee.
14. Dominic earned a monthly salary of Kshs. 21,702, while James earned Kshs. 27,240 monthly . Earnings depended on hours worked.
15. Redirected, Dominic told the Court that 46 hour-week is for Permanent Employees. James worked 48 hours a week. Pay slip did not show rest day paid.
16. George is an Agricultural Worker . He has worked since 1997. He was part of the group that negotiated the CBA. He is a Permanent Employee. Seasonal Employees were regulated under clause 21. He was not paid rest days.
17. Gideon adopted the Statement of Response, his Witness Statement and Document filed by the Respondent [CBA].
18. He explained that Seasonal Employees are engaged on need-basis. They are paid an hourly rate of Kshs. 113.50. All Employees were paid in accordance with the CBA.
19. Cross-examined, he told the Court that Seasonal Employees are defined as those who are engaged periodically, when needed. Dominic was not at work consecutively for 25 years. George rested on Sundays. He was on full pay.
20. There is some difference in terms and conditions of service between Seasonal and Permanent Employees under the CBA, such as on medical cover. The CBA however, does not discriminate against the Seasonal Employees.
21. There was no discrimination against the Seasonal Employees. They are not to be treated as Permanent Employees in every aspect. Differentiation is based on the seasonal nature of their work.
22. Redirected, Gideon told the Court that the CBA was negotiated and agreed to by the Parties. Clause 2 distinguished Seasonal from Permanent Employees. Any variances were based on the CBA.



**The Court Finds: -**

23. In Industrial Court at Nairobi, Cause Number 1148 of 2011, Kenya Plantation and Agricultural Workers Union v. Unilever Tea Kenya Limited, a similar dispute arose.
24. The Court was of the view that while the Employment Act grants Employees a minimum of 1 rest day in a week, there is nothing compelling daily-rated Employees to be paid salary while they are resting.
25. Whether the benefit should be paid to Seasonal Employees is left for the Parties to determine in their CBA.
26. The CBA of 2015-2017 between the Parties herein, did not make a provision for rest day, for Seasonal Employees.
27. In the Unilever decision above, the Claimant posited that the issue of rest day for daily-rated Employees, whose rates are consolidated, had been discussed by the Parties from the year 2007, without a resolution.
28. The Court held, and adopts that holding today, that the Seasonal Employees were paid hourly. The rate was a measure of their output. It was a consolidated rate. An hourly consolidated rate is all-inclusive.
29. In another decision, Industrial Court of Kenya award, in Cause No. 66 of 2006, Kenya Plantation and Agricultural Workers Union v. Delmonte Kenya Limited [same parties herein] Judge Isaac E. Mukunya [peace be upon him], held that the CBA then in place between the Parties, did not provide for payment of rest days. Daily rate paid was found to be consolidated, which the Court expounded, meant ‘amalgamated,’ or ‘combined.’
30. The Court advised the Parties that this meant, that the rest day was to be treated as being included, in the monthly package.
31. As in the decisions above, the Court is not able to find that Seasonal Employees of the Respondent, were discriminated against, by not receiving rest day benefit.
32. This is a item the Claimant Union should negotiate, and would be expected to have negotiated in subsequent CBAs, instead of asking the Court to intervene, and impose a benefit which was omitted by the Parties themselves, in their collective bargaining.
33. The matter has been adjudicated by the Court, and the Claimant ought not to file other Claims, seeking an alternative interpretation. This is a Court of record, and its decisions are preserved for perpetual memorial. The Court does not forget its previous decisions, and Parties ought to adhere to the findings of the Court, in similar or the same disputes, adjudicated in the past.

It Is Ordered: -

- a. The Claim is declined.
- b. Costs to the Respondent.

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

**JAMES RIKA**  
**JUDGE**

