



**Sigilai v Kenya Forest Service (Cause E015 of 2024)
[2025] KEELRC 624 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 624 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E015 OF 2024
J RIKA, J
FEBRUARY 28, 2025**

BETWEEN

EDWARD KIPKEMOI SIGILAI CLAIMANT

AND

KENYA FOREST SERVICE RESPONDENT

RULING

1. There a Judgment on record in this matter. It was delivered on 17th September 2024. The Court ordered the Respondent to reinstate the Claimant with effect from the date of his dismissal, without loss of salary and benefits.
2. It is necessary from the outset, to retrace the history of the Claim, from its filing, to the date of the Judgment.
3. The Statement of Claim was filed on 21st March 2024. It was together with the Notice of Summons, Verifying Affidavit, List of Witnesses, Witness Statement and Documents, physically served and received by the Respondent, at its Head Office in Karura Forest, Kiambu Road, on 25th March 2024.
4. Rule 29 of the E&LRC (Procedure) Rules, 2024, states that a party who has received a Statement of Claim, shall enter appearance and file a Statement of Response, within 28 days of service, or such shorter time as the Court may direct, on urgent matters.
5. The Respondent did not enter appearance or file its Statement of Response, as stipulated above.
6. The Claimant, citing Order 10 Rule 6 of the Civil Procedure Rules, which is inapplicable to proceedings of this Court, requested for default Judgment on 22nd May 2024.
7. The correct procedure where a party has failed to enter appearance and file a Statement of Response within the prescribed time, is Rule 31 of the E&LRC (Procedure) Rules, 2024, which stipulates that,



- where a Respondent has failed to enter appearance or file a defence, the Claimant may apply to the Court for directions that the matter proceeds to formal proof, as an undefended suit.
8. There was no prejudice however, occasioned by the Claimant's resort to the Civil Procedure Rules. The Court did not make an order entering default Judgment. The Claimant subsequently scheduled the Claim for directions, as contemplated under Rule 31 of this Court's Rules.
 9. Mention Notices were served upon the Respondent, who kept away from the Court, on successive dates.
 10. On 28th May 2024, the Court directed that the Claim is heard on formal proof. Hearing was scheduled for 4th July 2024.
 11. Although not required under the Rules to serve a Hearing Notice, on a party who has failed to appear and filed a Statement of Response, the Claimant served a Hearing Notice on the Respondent's Legal Officer, at the Head Office, Karura Forest, on 7th June 2024.
 12. This was almost a month, to the formal proof date.
 13. The Respondent did not bother to attend Court.
 14. After Judgment was delivered, the Respondent filed an Application dated 17th September 2024, founded on the affidavit sworn by Janet Chepkirui, seeking to have the Judgment set aside, and the Claim heard de novo, with the participation of the Respondent.
 15. The Respondent states that it filed its Statement of Response on e-filing platform, on 4th July 2024. The Response was on record by the time formal proof took place.
 16. The Respondent submits further, that it has a solid Response, the Claimant having been dismissed from employment fairly. He aided in the destruction of a forest he was duty-bound to protect.
 17. Without being clear, the Respondent submits that an attempt was made by the Respondent to serve its Statement of Response upon the Claimant, but that, "the only mistake was to miss out a letter in the Respondent's email address."
 18. The Claimant relies on his affidavit, sworn on 14th October 2024, which restates the history of the dispute from its filing to Judgment, as captured at the outset, in this Ruling.

The Court Finds: -

19. With tremendous respect to the Respondent, its only mistake was not "to miss out on a letter, in the Respondent's e-mail address."
 20. It failed to enter an appearance and file its Response, within the stipulated 28 days from the date of service. Mention Notices were served upon the Respondent. It was a big mistake not to attend Court when required to do so on mention. It sneaked in a Statement of Response on the e-filing platform, after receiving a Hearing Notice, it was not supposed to receive. There was no leave obtained from the Court to file a late Statement of Response. The Statement of Response irregularly filed, was never served on the Claimant. There is no explanation at all, why the Respondent did not attend Court, on 4th July 2024, even to seek the leave of the Court, to have its Statement of Response, received out of time.
 21. The Application filed by the Respondent, dated 17th September 2024, has no merit at all.
- It is ordered: -
- a. The Application filed by the Respondent dated 17th September 2024 is declined.



b. Costs to the Claimant.

DATED, SIGNED AND RELEASED ELECTRONICALLY AT NAKURU, THIS 28TH DAY OF FEBRUARY 2025.

James Rika

Judge

