



**Focus Logistic Limited v Otieno (Appeal E230 of 2024)
[2025] KEELRC 786 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 786 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
APPEAL E230 OF 2024
M MBARŪ, J
MARCH 6, 2025**

BETWEEN

FOCUS LOGISTIC LIMITED APPELLANT

AND

SAMUEL OWINO OTIENO RESPONDENT

RULING

1. The appellant filed the Memorandum of Appeal on 23 October 2024. There is no Record of Appeal.
2. On 16 December 2024, parties attended court and the appellant asked for more time to file the Record of Appeal and was allowed until 20 January 2025 to file and serve the Record of Appeal.
3. On the due date, the Record of Appeal had not been filed.
4. The respondent objected to the delays by the appellant and that under the Employment and Labour Relations Court (Procedure) Rules (Court Rules), the Record of Appeal should be filed within 60 days from the date of the trial court judgment.
5. In response, the appellant asked for 14 days to file the Record of Appeal.
6. The court allowed the appellant 14 days to file the Record of Appeal or attend to show cause why the appeal should not be dismissed given objections by the respondent and mentioned on 4 February 2025.
7. On the due date, no record had been filed. The reasons given are that the parties had a pending application before the trial court hence the typed proceedings could not be provided. The respondent submitted that no Record of Appeal had been served and on the notice to show cause not being satisfied, the appeal should be dismissed with costs.
8. I have checked on the CTS and the Record of Appeal was filed on 24 January 2025.



9. Under Rule 11 of the Court Rules, an appellant, before filing the Memorandum of Appeal, must obtain the following;
 - a. Copies of proceedings;
 - b. Any documentary evidence relied on;
 - c. Copy of the judgment/ruling/decision/order or decree or award appealed against.
10. The appeals should be filed within 30 days from the date of the impugned decision and be served upon the respondent within 20 days.
11. Under Rule 15 of the Court Rules, where the Record of Appeal is not filed together with the Memorandum of Appeal, it should be filed within 60 days from the date of the impugned decision. With the leave of the court, an appellant is allowed to apply and file a Supplementary Record of Appeal.
12. In this case, the trial court judgment was delivered on 4 October 2024. Under the rules, the Record of Appeal should have been filed within 60 days. Under Order 50 Rule 4 of the Civil Procedure Rules, the 60 days lapsed on 20 January 2025.
13. Both parties attended court and the appellant was allowed 14 days to file and serve the Record of Appeal or show cause why the appeal should not be dismissed. The appellant has since filed the Record of Appeal within the allocated 14 days on 24 January 2025.
14. Parties shall abide under Rule 24(1) of the Court Rules;
 24.
 - (1) A party shall file pleadings electronically and shall, within seven days of the filing, supply the Court with one hard copy of the pleadings or such number of hard copies as the Court may direct.
15. Upon compliance, the appellant shall serve the Record of Appeal upon the respondent and hearing directions shall be issued.

Orders accordingly.

DELIVERED IN OPEN COURT AT MOMBASA THIS 6TH DAY OF MARCH 2025.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

