



**Kenya Concrete, Structural, Ceramic Tiles, Wood Plys and Interior
Designs Workers Union v Comply Industries Limited (Cause
E001 of 2024) [2025] KEELRC 1578 (KLR) (30 May 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1578 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E001 OF 2024**

J RIKA, J

MAY 30, 2025

BETWEEN

**KENYA CONCRETE, STRUCTURAL, CERAMIC TILES, WOOD PLYS AND
INTERIOR DESIGNS WORKERS UNION CLAIMANT**

AND

COMPLY INDUSTRIES LIMITED RESPONDENT

JUDGMENT

1. The Claim herein is presented by the Claimant Union, on behalf of 15 former Employees of the Respondent. The Employees are members of the Claimant Union.
2. The Statement of Claim is dated 29th June 2022.
3. The Claimant's position is that the Respondent terminated the Employees' contracts on account of redundancy, but failed to pay their redundancy benefits.
4. The Claimant pleads that the Respondent's decision, was aimed at denying the Claimant Union sufficient numbers of Unionisable Employees at the Respondent. By so doing, the Respondent would ensure it does not grant recognition to the Claimant.
5. The dispute was reported to the Labour Office. The Conciliator recommended that the Employees should be paid 1-month salary in lieu of notice; severance; and unutilized annual leave.
6. The Respondent ignored the recommendations, warranting filing of this Cause at Nairobi.
7. The Cause was transferred to Nakuru through an order of the Court.
8. It was Cause No. E457 of 2022 at Nairobi. At Nakuru it has variously been indicated as Cause No.1 of 2024, Cause No. E01 of 2024, Cause No. E001 of 2024 and captured as Cause No. E002 of 2024



in some Cause Lists. The Court has confirmed with the Court Assistant, Mr. Emmanuel Kiprono, at the time of preparing this Judgment, that the correct registration number at Nakuru, is Cause No. E001 of 2024.

9. The Claimant's prayers are: -
 - a. Declaration that termination is null and void.
 - b. The 15 Employees are reinstated.
 - c. The Employees are paid notice, unutilized leave, severance, compensation for unfair termination, and damages for suffering.
 - d. Costs.
 - e. [The Claimant proceeds to pray that in alternative to prayers [b] and [c] above, the Employees are paid terminal dues inclusive of interest from the date of filing the Claim]
 - f. Any other suitable relief.
10. The Court does not think that prayer [e] is properly pleaded as an alternative to [c]. Terminal benefits can only be what is partly sought under prayer [c]. The Claimant has not indicated what other terminal benefits can possibly be granted, outside what is pleaded under prayer [c], so as to justify prayer [e] as an alternative to prayer [c].
11. The Respondent filed a Statement of Response dated 18th March 2022. The Statement is indicated to have been addressed to the Conciliator. The Court has not traced any other Statement of Response in the Court file, and it can be presumed that the Respondent's position did not change, upon coming to Court.
12. Its position is that it is a member of Timber Industries Employers Association. The Association recognizes another Union, Kenya Building and Construction Workers, with whom it has executed CBA. The Respondent therefore does not recognize the Claimant Union, and pleads that the Claimant has no locus standi in the dispute.
13. The Employees on whose behalf the Claim is presented, left employment on various dates, on account of redundancy.
14. The Respondent proceeds to compute terminal dues for each Employee, which it pleads, the Court should adopt.
15. The Claimant's witness Nicodemus Oteno Odongo, gave evidence on 5th November 2024, 27th November 2024, and 3rd January 2025, closing the Claimant's case. The Respondent's witness, Personnel Manager Nicodemus Musyoka, gave evidence on 3rd January 2025, closing the hearing.
16. The Claim was last mentioned on 29th April 2025, when the Parties appraised the Court on their compliance, with regard to filing of closing submissions.
17. Oteno adopted the documents filed by the Claimant as exhibits, in order of their listing. He also adopted his witness statement.
18. Cross-examined, he told the Court that the Employees' names were not indicated in the Statement of Claim. The Claimant represents the Employees. They resigned from their previous trade union. They were employed at Nakuru, but the Respondent had a registered office at Nairobi. He did not know that he needed written authority to represent the other Employees. He was issued a notice of redundancy by the Respondent. He was simultaneously issued a notice of termination. He was paid



- salary for February 2022, and issued certificate of service. The dispute was reported to the Labour Office. There was no settlement. The CBA exhibited before the Court was executed by the Building and Construction Union. The Conciliation report on record referred to the dispute involving one of the Employees, George Omiena, which was reported separately.
19. Redirected, Otieno told the Court that he worked for 11 years. He was issued a letter to show cause which was withdrawn, at the time of termination. It confused him.
 20. Personnel Manager Musyoka, who drew and signed the Statement of Response in person, told the Court that the Claimant Union sought recognition orders from the Court. Its Claim was dismissed. George Oluoch was paid gratuity after his contract expired. The contract could not be renewed, because the Respondent encountered a redundancy situation. He could not be paid notice, because he reported the dispute to the Labour Office.
 21. Musyoka told the Court that Parties went for conciliation, which resulted in recommendation by the Conciliator, that the Employees are paid notice, annual leave and severance. Before the Respondent could act on the recommendation, the Claimant moved to Court.
 22. The Respondent carried on business in the timber industry. There was a ban on logging. The Respondent could not function optimally, without timber. It declared redundancies. Musyoka attended conciliation meetings which were frustrated by the Claimant's representative Dishon Angoya. He would cause brouhaha at the meetings, bringing his differences with the rival Building and Construction Union, into the conciliation process. The chaos caused by Angoya were noted in the report of the Conciliator.
 23. Musyoka told the Court that the Respondent is ready to release the settlement cheques, in accordance with the computations proposed by the Respondent.
 24. Cross-examined, he told the Court that the Respondent followed redundancy law. He did not have evidence of the selection criteria. Recommendation by the Conciliator related to George Omiena alone. Other Employees were owed terminal benefits as well. The Respondent could not pay, because the Claim was presented before the Court. There was no order by the Court, barring payment.
 25. The issues are whether the Claimant has locus standi; whether the Employees' contracts were terminated fairly on account of redundancy; and whether they merit the prayers sought.

The Court Finds: -

26. This Claim need not have gone to trial. The Respondent conceded the Claim in the Statement of Response, drawn and filed by the Respondent's Personnel Manager, Nicodemus Musyoka, who also gave evidence for the Respondent.
27. It was never disputed that the 15 Employees were employed by the Respondent, on various dates and positions.
28. It is clear from the Response, and the Claim, and the evidence by the Parties, that the Employees left employment on account of redundancy.
29. The Respondent is a timber business, and its economic position was adversely affected, by a ban imposed by the Government on logging. The genuineness of the redundancy situation is not disputed by the Parties.
30. The dispute also went through conciliation at the Labour Office. One of the Employees, George Oluoch Omiena, had his dispute reported to the Labour Office separately from the other Employees.



- The Conciliator recommended that he is paid notice, severance and pending leave, much the same items that were offered to the Employees, in the computation contained in the Statement of Response.
31. The other 14 Employees had their dispute reported separately. Their conciliation process appears to have faced challenges, with the Conciliator complaining to the Chief Industrial Officer, that the Claimant Union, through Dishon Angoya, had disrupted the process, alleging that the Respondent had compromised the Conciliator.
 32. The circumstances of termination, in all cases however, were similar, and the Court does not understand why Dishon Angoya adopted a belligerent attitude, scuttling full settlement at Conciliation.
 33. The Claimant Union appears to have extended its recognition grievance with the Respondent, to the redundancy dispute. The disruption to conciliation process was occasioned by the Claimant. In its Statement of Claim, the Claimant states that the Employees were forced out of employment, to ensure the Claimant does not achieve the required number of Employees, to be recognized by the Respondent. The Statement of Claim, is centred on the Claimant. The Claimant's principal objective, is recognition. Focus on the Employees' redundancy was lost, leading to unnecessary delay in settlement of their redundancy benefits.
 34. The Claimant's approach is unfortunate, more so because it had presented court action elsewhere for orders of recognition, which action nevertheless, came to a cropper.
 35. The Claimant did not offer an alternative computation to what is contained in the Statement of Response. It did not plead specific figures, in the Statement of Claim, dated 29th June 2022. The Court has not been availed the computation that was preferred by the Claimant at conciliation.
 36. In the circumstances, the Court is persuaded that the Employees left employment on account of redundancy; there was conciliation held at the Labour Office, which resulted in findings and recommendations that would have provided the Parties with a platform for full settlement; and the Respondent offered to pay the Employees terminal benefits, but was held back by the belligerency of the Claimant Union's officials.
 37. The Respondent's witness told the Court that the Respondent is ready to release the Employees' cheques.
 38. On the legal capacity of the Claimant Union to represent the Employees, there is on record a Ruling of the Court delivered on 20th September 2024, affirming the capacity of the Claimant Union, to file and prosecute the Claim on behalf of its members.
 39. That Ruling does not seem to have been challenged by the Respondent on appeal. It is pointless to continue the challenge on locus standi of the Claimant Union, as the Respondent does, in its closing submissions. The issue was resolved preliminarily by the Court, at the invitation of the Respondent.

It is ordered: -

- a. Judgment is entered for the Claimant as admitted by the Respondent in the Statement of Response dated 18th March 2022.
- b. It is declared that the Employees left employment on account of a genuine redundancy situation.
- c. The Respondent shall pay to the 14 Employees' terminal benefits as computed in the Statement of Response dated 18th March 2022, comprising notice, severance and pending annual leave.



- d. George Oluoch Omiena, the 15th Employee shall similarly be paid terminal benefits as recommended by the Conciliator, comprising notice, severance and pending annual leave days.
- e. No order on the costs.
- f. The said amounts to be paid to the Employees within 14 days of this Judgment, in default, interest to accrue at court rate, from the date of Judgment till payment in full.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAKURU, THIS 30TH DAY OF MAY 2025.

JAMES RIKA

JUDGE

