



**Naomi Mwhaki Wangui v Platinum Outsourcing and Logistics E.A. Ltd
(Cause 187 of 2018) [2025] KEELRC 1570 (KLR) (29 May 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1570 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 187 OF 2018**

**S RADIDO, J
MAY 29, 2025**

BETWEEN

NAOMI MWIHAKI WANGUI CLAIMANT

AND

PLATINUM OUTSOURCING AND LOGISTICS E.A. LTD RESPONDENT

JUDGMENT

1. Platinum Outsourcing & Logistics E.A. Ltd (the Respondent) employed Naomi Mwhaki Wangui (the Claimant) in September 2016 as a Data Clerk. The Respondent extended the contract on 1 September 2017.
2. On 16 October 2017, the Respondent issued a show cause notice to the Claimant, calling upon her to respond to certain allegations within 48 hours. The Claimant responded on 17 October 2017, and she attended a disciplinary hearing on 18 October 2017.
3. The hearing was followed by the termination of employment.
4. The Claimant was aggrieved and she sued the Respondent on 19 February 2018, alleging unfair termination of employment and breach of contract.
5. The Respondent filed a Response on 18 December 2023.
6. The Claimant filed an Amended Statement of Claim on 11 April 2024, prompting the Respondent to file an Amended Response on 24 April 2024.
7. The Claimant filed a Reply to the Amended Response on 23 May 2024.
8. The Case was heard on 24 February 2025. The Claimant and 2 witnesses called by the Respondent testified (a Contract Manager and a Project Manager).
9. The Claimant filed her submissions on 17 March 2025, and the Respondent on 17 April 2025.



10. The Claimant identified 2 Issues for determination in her submissions:
 - i. Whether the Claimant's employment was unfairly terminated?
 - ii. Whether the Claimant is entitled to the reliefs sought?
11. The Respondent did not isolate the Issues for adjudication.
12. The Court has considered the pleadings, evidence and submissions.

Unfair termination of employment

Procedural fairness

13. The Claimant asserted that she was not accorded a fair hearing because she was not given sufficient time to respond to the show cause and that she was forced to attend the disciplinary hearing without prior notice.
14. Sections 35(1) and 41 of the *Employment Act*, 2007 set out the bare minimums of procedural fairness.
15. The Respondent issued a show cause to the Claimant, and the show cause set out the allegations to respond to.
16. The Claimant responded within the 2 days she was given. She did not indicate in the response that the time given was not sufficient.
17. The Claimant produced copies of the minutes of the disciplinary hearing. The minutes do not capture her as lamenting about the time allowed her to attend the hearing or that she required any further information.
18. In the circumstances, the Court is satisfied that the Respondent was in substantial compliance with the dictates of procedural fairness.

Substantive fairness

19. Sections 43 and 45 of the *Employment Act*, 2007, obligate the employer to prove the validity and fairness of the reasons for terminating an employment contract.
20. The reason for terminating the Claimant's contract was the loss of 620 barrels between 19 July 2017 and 20 July 2017.
21. The Respondent's Contract Manager testified that the Claimant's duties included ensuring the accuracy of stock and alignment of physical stocks with the WMS system, and that a loss occurred between 19 July 2017 and 20 July 2017.
22. The witness also testified that an investigation established that the Claimant had not kept track of stock movements.
23. During the disciplinary hearing and in Court, the Claimant maintained that she was not at work on the material days as she was attending a training facilitated by the Respondent and one of its clients. She named the employees who oversaw her duties during her absence.
24. The Claimant testified that upon returning to work after the training, she detected the loss and made a report to the Respondent's Operations Manager and the client's Supervisor.



25. The Respondent's Project Manager admitted during cross-examination that the Claimant was away from work when the loss occurred.
26. The Claimant was away from work when the loss occurred. The Respondent relied on an investigation report to terminate the Claimant's employment. A copy of the report was not produced in Court. Those who carried out the investigation were not called to testify.
27. The Court concludes that the Respondent did not prove valid and fair reasons to terminate the Claimant's contract because the loss occurred when she was not at work.

Compensation

28. The Claimant served the Respondent for slightly over 1 year, and in consideration of the length of service, the Court is of the view that the equivalent of 2 months' gross salary as compensation would be appropriate (gross salary was Kshs 30,000/-).

Salary in lieu of notice

29. With the finding of unfair termination of employment, the Court will allow the claim for 1-month salary in lieu of notice of Kshs 30,000/-.

Breach of contract

Salary for May 2017

30. The Claimant contended that she was not paid salary for May 2017, amounting to Kshs 30,000/-.
31. The Respondent, as custodian of employee records, did not rebut the assertion, and the Court will allow this head of the claim.

Salary for supervisory duties

32. The Claimant alleged that she performed supervisory duties from March to September 2017, and that the Respondent had promised to pay her an additional Kshs 30,000/- monthly, totalling Kshs 195,000/-.
33. Apart from the Claimant's say so, the Court has no other corroborating material to establish whether the Respondent made such a promise and whether such a promise would be legally enforceable.
34. Relief is declined.

Unfair labour practices

35. The Claimant did not submit on this issue, and the Court considers it was abandoned.

Lost income/loss of office

36. The Claimant did not make a pitch for this Issue in her submissions. Despite the failure, the Court finds no evidential or legal basis for the head of claim as presented.

Conclusion and Orders

37. The Court finds and declares that the Respondent unfairly terminated the Claimant's employment and was also in breach of contract.



38. The Claimant is awarded:

- i. Compensation Kshs 60,000/-
 - ii. Pay in lieu of notice Kshs 30,000/-
 - iii. May 2017 salary Kshs 30,000/-
- Total Kshs 120,000/-

39. The award to attract interest at court rates from the date of judgment until payment in full.

40. The Claimant to have costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 29TH DAY OF MAY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Acorn Law Advocates LLP

For Respondent Wanjiru Wambugu Advocate

Court Assistant Wangu

