



Kenya Engineering Workers Union & another v Ideal Appliances Limited (Employment and Labour Relations Cause E268 of 2021) [2025] KEELRC 1472 (KLR) (15 May 2025) (Ruling)

Neutral citation: [2025] KEELRC 1472 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E268 OF 2021**

**MN NDUMA, J
MAY 15, 2025**

BETWEEN

KENYA ENGINEERING WORKERS UNION 1ST CLAIMANT

AMOS OMOLO AND 53 OTHERS INTENDENT 2ND CLAIMANT

AND

IDEAL APPLIANCES LIMITED RESPONDENT

RULING

1. The suit was dismissed on 20/2/2023 for failure by the Claimants to attend court despite being present on the platform during call over. The suit was reinstated following an application by the Claimants for reinstatement on 26/3/2023.
2. The suit was again set for hearing on 19/3/2024. Both parties attended call over in the morning and matter was scheduled for hearing in open court at 12:30 p.m. Again, the Claimants did not attend the hearing and the suit was dismissed for non-attendance.
3. The Claimants filed another notice of motion application dated 19/8/2024 seeking to have the suit reinstated for a second time. The Respondent filed a replying affidavit to the application dated 2/12/2024.
4. This application dated 19/8/2024 is the only one pending for hearing and the issues for determination are:
 - i. Whether the suit was properly dismissed for non-attendance by the Claimants and should be reinstated.
 - ii. Whether the Claimants should pay thrown away costs if the suit is reinstated?



5. The claimants make unsubstantiated allegations that they were in court on two occasions when the suit was set for hearing in open court.
6. These allegations by the claimants have no basis at all because they did not appear in open court 5, Milimani Commercial Court at 12 PM on 20/2/2023 and on 19/3/2024 at 12.30 PM
7. This court has wasted a lot of time in trying to get this matter heard and determined but the claimants have frustrated that effort.
8. The court frowns at the conduct by the Claimants in this matter but however reinstates the suit to be heard on the merits on condition that the thrown away costs incurred by the Respondents on the two occasions the Claimants failed to attend open court hearing on 20/2/2023 and on 19/10/2023 be met by the Claimant union at a rate to be taxed by the taxing master before the suit is heard and determined.
9. The court also recuses itself from this matter and refers the same to the Presiding Judge, Claims Division, to be allocated to a judge in that division for hearing and determination.
10. The matter is referred to the presiding judge Claims Division for allocation to a Judge in that division for hearing on the merits.

DATED AT NAIROBI THIS 15TH DAY OF MAY 2025

MATHEWS NDUMA

JUDGE

Appearance:

Mr. Haraka for 1st Claimant

Mr. Amos Omolo for 2nd Claimants

Tony Odero for Respondent

Mr. Kemboi – Court Assistant

