



**Kenya Plantation and Agricultural Workers Union v Unilever Tea Kenya Limited
(Cause E022 of 2023) [2025] KEELRC 1867 (KLR) (27 June 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1867 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
CAUSE E022 OF 2023**

J RIKA, J

JUNE 27, 2025

BETWEEN

**KENYA PLANTATION AND AGRICULTURAL WORKERS
UNION CLAIMANT**

AND

UNILEVER TEA KENYA LIMITED RESPONDENT

JUDGMENT

1. The Claimant filed this Claim on behalf of its member [Grievant], Maureen Chepkirui, on 23rd October 2023.
2. It is pleaded that the Grievant was employed by the Respondent on 1st April 2012, as a leaf inspector. She was later promoted to the position of stores clerk.
3. She was issued a letter to show cause by the Respondent, dated 4th December 2020. She was alleged to have engaged in private business, together with her colleague Geoffery Ng'eno, contrary to the Respondent's code of business principles and policies. It was alleged that she did not disclose her engagement in the business, to her line manager.
4. She replied on 7th December 2020. She denied that she breached the code of business principles and policies. She was not involved in private business with Geoffery Ng'eno.
5. She was summoned for disciplinary hearing, on 31st August 2021. The letter also required her to show cause for a second time. She was alleged to have supplied Geoffrey Ng'eno with extra paper sacks, enabling him and other Employees, to engage in fraudulent activities against the Respondent.
6. She responded on 2nd September 2021 denying the accusation.
7. She attended hearing on 3rd September 2021. She explained that she was not part of the syndicate involved in theft of paper sacks at the Respondent's factory.



8. She explained that her relationship with Geoffery Ng'eno, was that of family friends. Money transactions flowing between them, was from a maize supply business, her husband and Geoffrey Ng'eno were engaged in. There was no witness at the hearing, who implicated the Grievant in theft of the Respondent's paper sacks.
9. She worked at logistics and supplies department, and not at the factory packing. She handled motor vehicle spare parts and construction items, not paper sacks. She started handling paper sacks in August 2020. She did not therefore supply the factory with paper sacks.
10. She was dismissed on 13th September 2021 on account of breach of the business code, and the CBA executed, between the parties herein.
11. She unsuccessfully appealed against the decision on 18th September 2021. Summary dismissal decision was upheld.
12. The dispute was taken up by the Claimant, and escalated to the Ministry of Labour. The conciliator recommended that the Grievant is paid compensation and terminal benefits.
13. She earned a monthly salary of Kshs. 32,586.10 at the time of her dismissal. She worked for close to 10 years, and her record was clean.
14. She prays for: -
 - a. Declaration that termination was unfair and unlawful.
 - b. Reinstatement.
 - c. Salary for the period she has been out of employment.
Alternatively-
 - d. Gratuity under the CBA.
 - e. Notice.
 - f. Annual leave and leave traveling allowance.
 - g. 12 months' salary in compensation for unfair termination.
 - h. Damages for unlawful, wrongful and unfair dismissal.
 - i. Costs.
 - j. Interest.
 - k. Any other suitable relief.
15. The Respondent filed its Statement of Response dated 2nd November 2023, and amended on 25th June 2024. It is conceded that the Grievant was employed by the Respondent, and dismissed on 13th September 2021.
16. Her record was not clean. She was dismissed for violation the Respondent's code of business principles, including: code protecting the Respondent's physical, financial assets, and intellectual property; code on accurate records, reporting and accounts, which forbids Employees from concealment, alteration, falsification of records, accounts and documents; and breach of the CBA clause 24 [c] and [g].



17. There was a theft syndicate involving the store, logistics, security and dispatch departments. The syndicate was active for over a year. The packing team fraudulently manipulated pallets of made tea, which would be earmarked for stealing by various persons. The Grievant aided and abetted theft.
18. She had variously been warned. She was issued a first letter to show cause in the year 2020. She continued to engage in the fraudulent activities in collaboration with other Employees and ex-Employees, including Geoffrey Ng'eno.
19. She was issued a second letter to show cause dated 31st August 2021 [not 2024 as indicated at paragraph 23 of the amended Response]. She replied on 2nd September 2021 denying involvement. She stated that m-pesa transactions flagged by the Respondent, related to maize business she carried on with her husband and Geoffrey Ng'eno.
20. She was invited to, and attended disciplinary hearing, accompanied by the Claimant's shop steward, on 3rd September 2021. She was fully and fairly heard. She was found to have engaged in theft, consigning extra tea packing sacks, more than what was required, facilitating the syndicate. She did not call her husband or Geoffrey Ng'eno to show that she was involved in maize business. She could not explain why she, not her husband, was the recipient of the funds in the maize business. Her husband was engaged in the business with Geoffrey Ng'eno.
21. The disciplinary committee established that she was in violation of the Respondent's code of business, and dismissed her. She appealed unsuccessfully.
22. The dispute went before the Ministry of Labour. The conciliator concluded that termination was unfair, and recommended that the Grievant is paid 10 months' salary in compensation. The conciliator also recommended that she is paid gratuity under the CBA, having worked for about 9 years. The Respondent avers that she is not entitled to gratuity and notice, having been summarily dismissed. The prayers for annual leave and leave traveling allowance, are not specified.
23. The Respondent prays the Court to find that termination was fair, and dismiss the Claim with costs.
24. The Grievant gave evidence and rested the Claimant's case, on 23rd January 2025. Head of sales, Paul Monda closed the evidence for the Respondent on 11th March 2025. The Claim was last mentioned on 29th April 2025, when the parties confirmed filing and exchange of their submissions.
25. Chepkirui adopted her witness statement and documents on record, in her evidence-in-chief. She told the Court that she is a housewife at Eldoret. She retold her employment history with the Respondent, and the circumstances leading to her dismissal, as contained in her pleadings. She reiterated that there was no evidence of her involvement with the theft syndicate. She had stock-taking every month. She carried out reconciliation every month. The allegation was that theft had been going on from January to June 2020. Her manager would sign reconciliation reports, and no issues were raised against her.
26. Cross-examined, she told the Court that Geoffrey was a colleague and a friend. She did not supply him with extra paper sacks. She was not part of a theft syndicate. She was told that the syndicate was active between January and June 2020. She was struggling to raise school fees. A friend assisted her with money. It was not proceeds of theft. She did not have excess paper sacks. She received the letter to show cause. She responded. She was heard. She was advised of her right to be accompanied. It was concluded that she was part of the syndicate. She was supplied stock reports from another department. Her department's stock reports were not produced.
27. Redirected, she told the Court that she was not dismissed on account of conflict of interest. Geoffrey Ng'eno used to work at the factory, not in the Grievant's department.



28. Paul Monda relied on his witness statement and 4 documents filed by the Respondent. The Respondent received information on the presence of a theft syndicate. Theft had been going on for 1 year. The involved Employees were using extra paper sacks. Investigations took place. The Grievant was implicated and issued a letter to show cause. She replied, was heard subsequently and dismissed.
29. On cross-examination, Monda told the Court that the letter to show cause indicated that theft was thwarted. Extra paper sacks were available to Employees. They were released from the store. The Grievant was not able to explain money transactions between her and Geoffrey Ng'eno. She was in charge of the consignment store. Initially, she had been asked to show cause for conflict of interest. This allegation was overtaken by events. Various Employees were implicated. They were subjected to disciplinary hearing. No witness was brought at the disciplinary hearing. The Respondent relied on investigation report. Monda was not aware of witnesses who implicated the Grievant. Audits were carried out monthly. The material supplier would carry out stock count monthly, and bill the Respondent. The Grievant had previous warnings.
30. Redirected, Monda told the Court that theft involved paper bags from the factory. Employees would pack tea in stolen bags. Between the factory and Mombasa, the trucks would be diverted, and tea packed in stolen bags, offloaded. The syndicate was facilitated through the extra bags.
31. The issues are whether the Grievant's contract was terminated through a fair procedure; whether termination was based on valid reason; and whether the Grievant merits the prayers sought.

The Court Finds: -

32. It is common evidence that the parties have a recognition agreement and have executed a collective bargaining agreement. The Grievant was employed by the Respondent as a leaf inspector. She was promoted to a consignment stores clerk. It is not disputed that she was twice issued with letters to show cause. She was taken through a disciplinary hearing on 3rd September 2021, and dismissed on 13th September 2021. She appealed on 18th September 2021 without success.
33. Her last salary was Kshs. 35,586.10 monthly.
34. It is not disputed that the dispute was reported to the Labour Office Kericho County. Parties made representations before the conciliator, who agreed with the Claimant, that the Grievant was unfairly dismissed. It was recommended that she is paid terminal benefits and compensation for unfair termination.
35. Procedure. There is adequate evidence to warrant the Court to find, that procedure was fair, in accordance with Sections 41 and 45 of the [Employment Act](#).
36. The Grievant was initially called on to show cause over allegations of conflict of interest, on 4th December 2020. She responded on 7th December 2020.
37. On 31st August 2021, she was issued a second letter to show cause, over allegations that she was involved in a theft syndicate against the Respondent. She was alleged to have facilitated supply of extra tea paper sacks to Geoffrey Ng'eno and other Employees. The bags were used for fraudulent packing of tea, as it made its way out from Kericho, for auction at Mombasa.
38. The Grievant responded on 2nd September 2021.
39. She attended disciplinary hearing on 3rd September 2021, in the company of a shop steward. She was heard.



40. She was informed through a letter dated 13th September 2021, that a decision had been taken, to summarily dismiss her.
41. She appealed on 18th September 2021. Her appeal was unsuccessful.
42. The dispute was taken up by the Claimant and reported to the Labour Office.
43. The parties made their representations, and the conciliator found in favour of the Grievant, recommending that she is paid terminal benefits and compensation for unfair termination.
44. Procedure was in conformity with the statutory standards of fairness, prescribed under Sections 41 and 45 of the *Employment Act*.
45. Validity of reason[s]. The initial allegation against the Grievant, communicated in the letter to show cause dated 4th December 2020, was that she was conducting personal business with Geoffrey Ng'eno, without disclosure to her line manager, which was deemed to amount to conflict of interest, under the Respondent's code of business principles and policies.
46. The Grievant responded on 7th December 2020. The Respondent appears to have been satisfied with her explanation, because no adverse action was taken against the Grievant, on 8th December 2020, when she had been informed there was going to be a disciplinary hearing.
47. The allegation on conflict of interest was therefore closed.
48. On 31st August 2021, she was issued a second letter to show cause revolving around supply of extra tea paper sacks. She was alleged to have supplied the sacks to the same person, Geoffrey Ng'eno, who was earlier alleged to have been her business partner, with relation to the allegation on conflict of interest.
49. The Grievant worked at the consignment store. Investigations established that excess paper sacks, left the store. Some were traced to Geoffrey Ng'eno. It was established that money had changed hands, between the Grievant and Ng'eno. There were m-pesa transactions. The Grievant explained that the transactions related to maize business between her husband and Ng'eno, who was a family friend. She also told the Court on cross-examination that she was struggling paying school fees, and a friend assisted her with some money to pay the fees. Her explanations about suspicious credits made in her favour via m-pesa, at the time the Respondent was experiencing theft from within its Employees, were not persuasive.
50. She was likewise not persuasive in explaining why Ng'eno would credit her account for maize supply, and not her husband's account. She did not call either Ng'eno or her husband to shed light on their maize business. She did not call her friend who assisted her with school fees. She was advised from the outset, that she could call any witness.
51. She was not consistent in explaining her role. She told the Court that she worked in logistics and supplies, handling vehicle spare parts and construction items. She disowned handling paper sacks, yet she was aware that there was monthly stock taking and reconciliation, with regard to paper sacks. She gradually conceded that she had a role supplying paper sacks from August 2020. She seemed to be vacillating in explaining her dealing with paper sacks.
52. Section 43 [2] of the *Employment Act* defines reasons justifying termination, as matters that the Employer, at the time of termination, genuinely believed to exist, and which caused the Employer to terminate the services of the Employee.
53. The Respondent's Employees and ex-Employees were engaged in sustained theft of their Employer's and former Employer's paper sacks and tea. Tea destined for Mombasa was stolen, through release of



extra paper sacks, from the Respondent's stores. There were suspicious money transactions carried out by the Grievant and some of the implicated Employees. The Grievant was at the heart of the consignment store, and did not persuade the Court that she only handled vehicle spare parts and construction items. She was likely an active participant in theft, or as the consignment store clerk was negligent, enabling extra paper sacks to leave the store, unto the hands of unscrupulous Employees and ex-Employees. Theft was investigated, and the Grievant reasonably suspected of involvement. She had the opportunity to call witness and absolve herself. She did not do so, even though accompanied to the disciplinary hearing by her shop steward.

54. The Grievant conceded in her letter of appeal that theft occurred, and that Geoffrey Ng'eno, her friend was a prime suspect. She perplexingly referred to theft of her former Employer's property, merely as an unfortunate incident.
55. In the end the Court is satisfied that termination was fair, under Sections 41, 43 and 45 of the *Employment Act*.
56. Remedies: The Grievant was offered salary for days worked, pro-rata leave and one-way ticket home, upon dismissal.
57. She had served for less than 10 years, to be considered for gratuity, under the CBA. The Court is not able to justify payment of any other terminal benefits to the Grievant, beyond what was availed to her on dismissal.
58. It is ordered: -
 - a. The Claim is declined.
 - b. No order on the costs.

DATED, SIGNED AND RELEASED ELECTRONICALLY AT KERICHO, THIS 27TH DAY OF JUNE 2025.

JAMES RIKA
JUDGE

