



**Njoroge v Bio Foods Products Limited (Cause E019 of 2024)
[2025] KEELRC 2261 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2261 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E019 OF 2024**

**J RIKA, J
JULY 30, 2025**

BETWEEN

MIRIAM WAITHERA NJOROGE CLAIMANT

AND

BIO FOODS PRODUCTS LIMITED RESPONDENT

RULING

1. Judgment was delivered in favour of the Claimant, on 28th February 2025.
2. The Court granted the Claimant notice and compensation for unfair termination in the sum of Kshs. 881,719, costs and interest.
3. Hearing took place on 29th January 2025, in the absence of the Respondent.
4. It is noted in the Judgment that the Respondent was served with the Notice of Summons and the Statement of Claim on 16th May 2024, but did not respond to the Claim.
5. Parties appeared before the Court on 18th September 2024 for directions. An Advocate representing the Respondent sought more time to respond to the Claim.
6. The Court allowed the Respondent a period of 14 days to file and serve its response.
7. No response had been filed as of the next mention date, scheduled for 15th October 2024.
8. The Respondent was granted another 14 days.
9. There was nothing filed by the Respondent as of 21st November 2024 when the Claim was next mentioned.
10. Hearing was scheduled for 29th January 2025.



11. On the hearing date, an Advocate appeared for the Respondent informing the Court that her colleague, who was seized of the matter was bereaved, and unable to proceed.
12. The Court rejected that application, on the ground that no response had yet been filed, and bereavement if any, had no relationship with lack of a response on record. Hearing therefore proceeded ex parte, resulting in the Judgment dated 28th February 2025.
13. The Respondent filed an application dated 27th May 2025, asking the Court to stay execution of its Judgment; grant the Respondent leave to file its response; and re-open the Claim for hearing.
14. The Respondent submits that it was denied a fair hearing under Article 50 of the Constitution; its Counsel was bereaved on the hearing date and could not attend Court; the Respondent was unaware about the hearing; there was another Claim filed by the Claimant against the Respondent, over the same subject matter at the Chief Magistrate's Court Nakuru, which was still pending; the Respondent had raised objection on the jurisdiction of the Court; and the Respondent has a meritorious response, which ought to be heard.
15. The Respondent relies on the affidavit of its Legal Officer Ivy Okeyo, sworn on 27th May 2025.
16. The application is opposed through the affidavit of the Claimant, sworn on 5th June 2025. She repeats the history of the Claim, from the date of service of the summons, right through the various mention dates, when procedural orders issued, up until the ex parte hearing and Judgment. This history is summarized by the Court above, and in the Judgment on record, and is not contested. The Claimant urges the Court to dismiss the application, and let her have full access to, and enjoyment of, the fruits of her litigation.
17. Parties were directed at the last appearance before the Court, on 24th June 2025, to file and exchange submissions.

The Court Finds: -

18. The application filed by the Respondent dated 27th May 2025 is wholly without merit.
19. The Respondent repeats its explanation about its Advocate's bereavement on the date of the hearing, a matter which was addressed by the Court in its Judgment.
20. Bereavement of Counsel, did not explain multiple failures by the Respondent, when granted serial extensions of time, to file and serve its response.
21. The Claim before the Chief Magistrate's Court was withdrawn vide a notice dated 17th April 2024. Concerning the preliminary objection, the Respondent's Counsel, one Ms. Salim, appeared in Court on 15th October 2024, and confirmed in concurrence with Mr. Bitok for the Claimant, that the preliminary objection had been withdrawn. Withdrawal paved the way for the orders extending time for the Respondent to file its response, within 14 days.
22. It is most absurd that the Respondent, would claim violation of its right to fair hearing, while multiple opportunities were availed to the Respondent by the Court to file its response.
23. None of the grounds upon which the Respondent has based its application, has merit. Reopening the hearing would itself violate the Claimant's right to a fair and expeditious administration of justice, under Article 159 [2] [b] of the Constitution.



It Is Ordered: -

- a. The application by the Respondent dated 27th May 2025 is declined.
- b. Costs to the Claimant.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, THIS 30TH DAY OF JULY 2025.

JAMES RIKA

JUDGE

