



Kenya Engineering Workers Union v Metal Equipment Limited (Cause E272 of 2021) [2024] KEELRC 23 (KLR) (25 January 2024) (Ruling)

Neutral citation: [2024] KEELRC 23 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E272 OF 2021
L NDOLO, J
JANUARY 25, 2024**

BETWEEN
KENYA ENGINEERING WORKERS UNION CLAIMANT
AND
METAL EQUIPMENT LIMITED RESPONDENT

RULING

1. This claim was filed in court on April 1, 2021. Alongside the Memorandum of claim, the claimant filed a notice of motion under certificate of urgency. I dispensed with the notice of motion by my ruling delivered on October 7, 2021.
2. There was no further action on the matter until October 11, 2023, when the Respondent moved the court to have the claim dismissed for want of prosecution. The respondent's notice of motion in this regard is supported by an affidavit sworn by its Counsel, Ondieki Robert and is premised on the following grounds:
 - a. That the suit was last in court on October 7, 2021 for ruling on the claimant's application, which was dismissed;
 - b. That since then, the claimant has not set down the matter for pre-trial or hearing nor has it taken any steps to have the matter set down for directions;
 - c. That the claimant has inordinately failed, refused and/or neglected to take any steps to prosecute its case;
 - d. That the claimant has not demonstrated any intention and/or willingness to prosecute its case.
3. In an attempt to respond to the respondent's application, the claimant filed an un-commissioned affidavit. The claimant also appears to have misunderstood the subject matter of the application.



4. Despite these lapses however, the court will rely on the oral submissions of the Union Representative, Mr. Araka that he had suffered ill health resulting from an accident.
5. I will therefore decline the application to have the matter dismissed for want of prosecution and direct the parties to set it down for hearing on merit.
6. The costs of the application will be in the cause.
7. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF JANUARY 2024

LINNET NDOLO

JUDGE

Appearance:

Mr. Araka for the Claimant

Mr. Ondieki for the Respondent

