



**Keana v Quavatel Limited (Cause E704 of 2023)  
[2024] KEELRC 1528 (KLR) (14 June 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1528 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E704 OF 2023**

**J RIKA, J  
JUNE 14, 2024**

**BETWEEN**

**EDWARD SAGINI KEANA ..... CLAIMANT**

**AND**

**QUAVATEL LIMITED ..... RESPONDENT**

**RULING**

1. This ruling is in relation to two applications. The first is dated 27<sup>th</sup> September 2023, filed by the Claimant, asking the Court that the Claim proceeds to formal proof hearing, the Respondent having failed to file its Statement of Response, within the prescribed time.
2. The second, filed by the Respondent, is dated 5<sup>th</sup> February 2024, asking the Court to have the Claim dismissed, on the ground that the Respondent is not the immediate Employer of the Claimant.
3. The Court directed that the applications are dealt with on the strength of the Parties' affidavits and submissions. Submissions were confirmed to have been filed and exchanged at the last mention, on 4<sup>th</sup> April 2024.

**The Court Finds**

4. Both applications are not necessary.
5. If the Respondent has failed to file a Statement of Response, the Claimant could have had the matter mentioned, and sought a hearing date, without the filing and prosecution of an application.
6. If the Claimant has sued the wrong Respondent, the Respondent should have filed a Statement of Response first, pointing out that it is the wrong Respondent, and then file an application to strike out the Claim. It is irregular to file an application, which is not grounded on any Statement of Response.



7. A cursory look at the documents filed by the Claimant, confirm that the Claimant was employed by a company with a similar name to the Respondent. The mutual separation agreement dated 20<sup>th</sup> July 2023 is between him and a company with a similar name to the Respondent. If the Respondent did not employ the Claimant, this can only be clarified through a Statement of Response, and evidence taken from the Parties upon trial of the facts.
8. The Court does not think that the applications are warranted.

**It Is Ordered**

- a. The Respondent is granted 14 days from the date of this ruling to file its Statement of Response, documents and witness statements if any.
- b. If none is filed within 14 days, the matter be mentioned before the Deputy Registrar who will allocate the Claimant a hearing date on formal proof.
- c. If the Respondent will have complied, the Deputy Registrar to allocate Parties hearing date.
- d. No order on the costs.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 14<sup>TH</sup> DAY OF JUNE 2024.**

**JAMES RIKA**  
**JUDGE**

