



**Kenya Union of Commercial Food and Allied Workers v Maruti Office Supplies Limited
(Cause E718 of 2020) [2024] KEELRC 2216 (KLR) (19 September 2024) (Judgment)**

Neutral citation: [2024] KEELRC 2216 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E718 OF 2020
L NDOLO, J
SEPTEMBER 19, 2024**

BETWEEN
**KENYA UNION OF COMMERCIAL FOOD AND ALLIED
WORKERS CLAIMANT**
AND
MARUTI OFFICE SUPPLIES LIMITED RESPONDENT

JUDGMENT

1. By a judgment delivered on 24th March 2022, I directed the parties to conclude the conciliation process as provided by the *Labour Relations Act*.
2. The Conciliator subsequently issued a certificate of an unresolved dispute on 16th April 2024 and when the parties appeared before me on 24th April 2024, it was agreed that the Respondent would deduct and remit union dues on account eight (8) existing members. It was further agreed that the dispute on recognition would be dispensed with by way of written submissions.
3. In its submissions, the Claimant accuses the Respondent of applying tactical strategies to avert recognition, through redundancies and refusal to renew contracts.
4. On its part, the Respondent submits that the Claimant has not met the threshold for recognition, by recruiting 50%+1 of the Respondent’s unionisable employees as its members.
5. The Respondent states that at the conciliation meeting, the Claimant presented a signed check off form for only 13 employees out of 28 unionisable employees. The Respondent adds that 5 out of the 13 members had left its employment on 31st December 2023, leaving only 8 employees as members of the Claimant.



6. Section 54 of the *Labour Relations Act* provides a clear criterion for recognition of a trade union for purposes of collective bargaining. The set threshold of 50%+1 is a matter of fact to be proved by the trade union seeking recognition.
7. In this case, the Respondent has provided the union membership within its unionisable establishment, which falls below the threshold of 50%+1 and the Claimant has not provided any evidence to contradict the Respondent's position.
8. In the result, I find and hold that the Claimant has failed to establish a case for recognition. Its claim therefore fails and is dismissed with an order that each party will bear their own costs.
9. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 19TH DAY SEPTEMBER 2024

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JUDGE

Appearance:

Ms. Manene for the Claimant

Mr. Owuor for the Respondent

