



**David v Personnel Manager, Collindale Security Limited (Cause 1943 of 2016)  
[2024] KEELRC 13251 (KLR) (27 November 2024) (Judgment)**

Neutral citation: [2024] KEELRC 13251 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1943 OF 2016  
B ONGAYA, J  
NOVEMBER 27, 2024**

**BETWEEN**

**MUTUA DAVID ..... CLAIMANT**

**AND**

**PERSONNEL MANAGER, COLLINDALE SECURITY  
LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed the memorandum of claim dated 21.09.2016 in person. He averred that the respondent employed his services as a security guard on August 1997 on a monthly salary of Kshs. 4,836/= but did not issue him with an appointment letter as required by law. At the point of exit, his salary had increased to Kshs. 7,560/=.
2. The claimant’s case was that he served the respondent with loyalty and diligence until 13.04.2016 when he voluntarily terminated his contract of service without notice because the employer failed to pay him statutory minimum remuneration. He contended that he served the respondent under difficult conditions as he was underpaid his basic salary and was therefore unable to cater for the needs of his family. He was consequently evicted from his rental house, his children did not attend school, and, had to beg from well-wishers.
3. It was the claimant’s averment that he had approached the respondent for a salary increment through a letter dated 02.08.2015 but the same was not addressed. The respondent ignored paying him the rightful amounts of basic salary, four (4) extra hours worked on a daily basis, and basic house allowance. He also served it the demand and notice of intention to sue but the respondent persists in its refusal to make good the situation.
4. The claimant thus prayed that the Honourable Court awards as follows:



- A. Underpayment of basic pay from August 1997 to May 2016,  $18 \times 12 = 216$  months,  $12,221.10 - 7,560 = 4,661.10$ ,  $4,661.10 \times 216 \dots \dots \dots$  Kshs. 1,006,797.60
- B. House allowance:  $12,221.10 \times 15$ ,  $1833.10 - 1000$ ,  $833.10 \times 216$  months period worked  $\dots \dots \dots$  Kshs. 179,949.60
- C. Extra 4 hours worked on daily basis at hourly rate of Kshs. 110.20 for 26 days worked per month for the 216 months period worked ( $4 \times 110.20 \times 26 = 11,440/=$ ,  $11,440 - 4,028 = 7,412$ ,  $7,412 \times 216 \dots \dots \dots$  Kshs. 1,600,992.00
5. Through a notice of appointment of advocates dated 10.08.2021, the claimant appointed M/s Paul Ndungu & Company Advocates to act for him. Thereafter on 13.06.2024, the claimant filed a notice of change of advocated dated 24.05.2024 appointing A.M Kamundia & Company Advocates in the place of Paul Ndungu & Company Advocates.
6. The respondent did not file any response to the claimant's claim.
7. The matter proceeded for formal proof, as there was no defence on record.
8. According to the respondent's advocate, the claimant sued the personnel manager and not the respondent company.
9. The claimant tendered his evidence before the Court, was cross-examined by the respondent's advocate and thereafter filed his written submissions. The respondent has not filed any submissions.
10. The claimant testified that his employer was Collindale Security Limited. He confirmed that he had failed to amend his suit to reflect his proper employer. The named respondent appears not to exist as is not a natural or artificial person in law. The Court finds that there exist no proper respondent and the claimant failed to sue the well-known employer.

In conclusion, the suit is hereby dismissed with no orders on costs.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS WEDNESDAY 27<sup>TH</sup> NOVEMBER 2024.**

**BYRAM ONGAYA**

**PRINCIPAL JUDGE**

