



**Olulo v Digital Communications Systems Ltd (Cause E016 of 2020)
[2024] KEELRC 13284 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13284 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E016 OF 2020
S RADIDO, J
NOVEMBER 14, 2024**

BETWEEN

MICHAEL OLULO CLAIMANT

AND

DIGITAL COMMUNICATIONS SYSTEMS LTD RESPONDENT

RULING

1. Michael Olulo (the Claimant) sued Digital Communications Systems Ltd (the Respondent) alleging breach of contract (failure to pay terminal benefits and issue a Certificate of Service).
2. When served, the Respondent filed a Notice of Preliminary Objection on 21 June 2021, contending that:
 - (i) The suit does not lie and should be struck out with costs for being time barred.
3. The Court gave directions on the Preliminary Objection on 14 October 2024.
4. Despite the express orders of the Court, the Respondent did not file its submissions on (should have been filed and served before 22 October 2024).
5. The Claimant did not also file his submissions (should have been filed and served on or before 29 October 2024).
6. The Court has considered the record and Notice of Preliminary Objection.
7. In paragraph 5 of the Memorandum of Claim, the Claimant pleaded that he issued a notice to terminate the contract to the Respondent dated 30 June 2017.
8. The electronic record of the Court (CTS) indicates that the Memorandum of Claim was lodged with the Court on 30 June 2020 (despite the stamp on hard copy showing a date stamp of 10 July 2020).



9. The said system also indicates that the Claimant had made payment for filing the Memorandum of Claim on 21 June 2020, and was issued with a receipt number FSCA-0018640 on the same day.
10. An arithmetical computation leaves no doubt that the Claimant presented the Cause and made payment before the lapse of the 3 years provided for in section 90 of the Employment Act, 2007.

Orders

11. In light of the above, the Court finds the Notice of Preliminary Objection without merit. It is dismissed with costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 14TH DAY OF NOVEMBER 2024.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Ogola Okello & Co. Advocates

For Respondent Kangethe & Mola Advocates

Court Assistant Wangu

