



Muriithi v Music Copyright Society of Kenya (Employment and Labour Relations Cause E533 of 2021) [2024] KEELRC 13586 (KLR) (13 December 2024) (Ruling)

Neutral citation: [2024] KEELRC 13586 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E533 OF 2021
AN MWAURE, J
DECEMBER 13, 2024**

BETWEEN

RAPHAEL NDEGWA MURIITHI CLAIMANT

AND

MUSIC COPYRIGHT SOCIETY OF KENYA RESPONDENT

RULING

Introduction

1. In a judgment delivered on 14th May 2024 the parties were ordered to work out the claimed unpaid dues and inform the court on 24th June 2024 when the final award will be pronounced.
2. The Claimant filed written submissions dated 20th September 2024, while the Respondent did not file any written submissions.

Claimant's Submissions

3. The Claimant submitted that he is entitled to receive his terminal dues including unpaid salaries for the period January 2017 to April 2018 amounting to Kshs. 8,666,487.66, notice pay amounting to Kshs. 301,108 and a certificate of service.

Analysis and Determination

4. I have considered the submissions on record and the issue of determination is whether the Claimant is entitled to his terminal due.
5. In *Peter Mutuku Nthuku v Perimeter Protection Limited* [2018] KEELRC 1366 (KLR) the court held that the claimant is entitled to several terminal dues, including salary for the days worked in July and August 2015, one month's salary in lieu of notice, a uniform refund, and gratuity calculated at 18 days'



pay for each of the 11 years of service. These amounts, along with any unpaid salary, must be assessed and paid by the respondent within 30 days, and the claimant should also receive a certificate of service.

6. In *Odhiambo v University of Nairobi Enterprises and Services Limited* [2023] KEELRC 994 (KLR) the court held that the Respondent to pay the Claimant as he is entitled to his terminal dues, including gratuity as specified in his employment contract, as the 2018 HR procedures manual did not apply to him.
7. In this instant case, the Claimant was not paid his terminal dues and the Respondent reaffirmed the position during trial. Also, the Respondent did not provide any evidence that it paid the Claimant his terminal dues and also did not controvert the figures given as basic salary of the claimant.
8. In view of the foregoing, this Honourable Court awards the terminal dues as follows:
 - a. Unpaid salaries for the period between January 2017 to April 2018 amounting to Kshs.4,516,620/= at Kshs.301,108/= per month.
 - b. Payment in lieu of notice amounting to Kshs. 301,108/=
 - c. The Respondent to issue a certificate of service in accordance with section 51 of the *Employment Act* within 30 days.
 - d. Total awarded is Kshs.4,817,728/= plus interest at 14% per annum from date of this award till full payment.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAKURU THIS 13TH DAY OF DECEMBER, 2024.

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

