



**Kenya National Union of Domestic Workers v Diani Flowers and  
Landscaping Limited (Employment and Labour Relations Cause  
E405 of 2022) [2023] KEELRC 169 (KLR) (31 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 169 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE E405 OF 2022**

**J RIKA, J  
JANUARY 31, 2023**

**BETWEEN**  
**KENYA NATIONAL UNION OF DOMESTIC WORKERS ..... CLAIMANT**  
**AND**  
**DIANI FLOWERS AND LANDSCAPING LIMITED ..... RESPONDENT**

**RULING**

1. This claim was filed on June 15, 2022.
2. It was filed by the claimant union on behalf of Mourine Achieng' Omondi, a former employee of the respondent, who claims unfair termination.
3. The respondent filed a notice of preliminary objection, on the capacity of the claimant, to present the claim. It is submitted that the claimant union does not represent the industry in which the respondent carries on its business.
4. The claimant filed a notice of withdrawal of the claim, dated November 11, 2022.
5. However, on November 15, 2022, the advocates consented to have the claim reinstated, and preliminary objection determined on the basis of their written submissions.

**The court finds: -**

6. The claimant concedes in its submissions that 'the claimant's present advocates were appointed on November 11, 2022 and the claim was initially filed by the claimant whose members are not trained in law, mistake if any can be rectified thorough substitution and/or amendment, the claimant is willing to have the pleadings amended, thereby substituting the claimant with the grievant, one Mourine Achieng Omondi. '



7. In effect the claimant concedes it does not have the capacity to represent the grievant. The claimant cannot feign ignorance, being a registered trade union. It is familiar with its constitution, and the area of its representation.
8. The claim is filed by a party with no locus standi, and cannot be cured by amendment or the proposed substitution.
9. The claimant should have retained faith, in its notice of withdrawal of the claim, dated November 11, 2022.

**It is ordered: -**

- a. The preliminary objection is sustained, and the claim is struck out.
- b. Costs to the respondent to be paid by the claimant union.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 31<sup>ST</sup> DAY OF JANUARY 2023.**

**JAMES RIKA**

**JUDGE**

