



**Yallo v Faulu Microfinance Bank Limited (Cause E266 of 2022)
[2023] KEELRC 165 (KLR) (31 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 165 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E266 OF 2022
J RIKA, J
JANUARY 31, 2023**

BETWEEN

ABIGAIL AWUOR YALLO CLAIMANT

AND

FAULU MICROFINANCE BANK LIMITED RESPONDENT

RULING

1. The respondent was late in filing its statement of response, witness statements and documents.
2. Parties filed consent order on June 29, 2022, allowing the respondent to comply, within 7 days of the order.
3. The claim was mentioned on July 29, 2022, when the respondent confirmed filing of its statement of response, but not the witness statements and documents.
4. It applied and was allowed to file these by end of the day on July 29, 2022.
5. There was no compliance until a day later, on August 1, 2022.
6. This prompted the claimant to file an application, on the same date, August 1, 2022, asking the court to strike out the witness statement and documents filed by the respondent on August 1, 2022.
7. The claimant was granted interim orders on August 3, 2022, to the effect that the witness statement and documents filed by the respondent, shall not form part of the record pending hearing of the application inter partes.
8. Parties agreed to have this application considered and determined on the strength of their submissions.



The Court Finds: -

9. Whereas orders of the court, including procedural orders, must be honoured, a delay of 24 hours on filing of pleadings and documents, should not attract the draconian order of striking out those pleadings and documents.
10. Striking out would take the parties back to where they were, before they consented on June 29, 2022, to have the respondent file its pleadings and documents out of time.
11. It is noted that on July 29, 2022, the parties scheduled full hearing for February 1, 2023. Striking out would convert the full hearing into a formal proof hearing, which was not the intention of the parties, when they agreed to have the respondent file its pleadings and documents late.

It Is Ordered: -

- a. The application filed by the claimant dated August 1, 2022 is declined.
- b. Respondent shall however pay costs of Kshs 4,000 to the claimant, before February 1, 2023.
- c. Hearing to proceed as scheduled.

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

JAMES RIKA

JUDGE

