



**Kenya Hotels and Allied Workers Union v Nyanza Club (Cause E004 of 2021) [2023] KEELRC 35 (KLR) (19 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 35 (KLR)

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**  
**CAUSE E004 OF 2021**  
**CN BAARI, J**  
**JANUARY 19, 2023**

**BETWEEN**  
**KENYA HOTELS AND ALLIED WORKERS UNION ..... CLAIMANT**  
**AND**  
**NYANZA CLUB ..... RESPONDENT**

**RULING**

1. In a judgment rendered by this court on February 10, 2022, parties were directed to jointly compute the amount due and payable to the claimant's membership in accordance with a judgment rendered in ELRC Cause No 118 of 2017 on December 13, 2018, and the parties jointly agreed computation be filed before this court within 45 days of that judgment for adoption.
2. Parties were further ordered to negotiate and file a mutually agreed payment scheduled for the agreed sum.
3. The matter was mentioned severally with a view to adopt the computation and the payment schedule. The claimant told the court that the respondent frustrated efforts to comply with the orders of the court leaving them no option but file their computation for adoption without the respondent's input.
4. The matter was mentioned on several occasions, when the respondent's counsel sought more time to seek instructions from their client on the computation, and which requests were allowed culminating in several adjournments of the matter at the instance of the respondent to allow for the computation.
5. The court finally heard the parties on the issue, where the claimant submitted that they filed a computation dated August 24, 2022, without the input of the respondent on the premise that the respondent had declined their invitation to prepare a joint computation as directed by the court.
6. The claimant further submitted that section 57 (2) of the *Labour Relations Act, 2007* requires that the respondent avails her records relating to their members, but which the respondent has not adhered to.



7. The claimant further submitted that the computation they filed in court has not been contested, and pray that the court adopts it as part of the judgment rendered on February 10, 2022.
8. Mr Jeji appearing for the respondent told court that the respondent has had challenges meeting the claimant's representatives for purposes of the computation, and hence the reason they have not concluded a joint computation as directed.

### **Determination**

9. The orders of this court in relation to the computation of monies owed to the claimant's membership, were clear and time bound. The court however severally allowed the respondent more time to file the computation, but the respondent made no effort in this respect.
10. As at the time of hearing the parties on the computation, the respondent's advocates intimated that they had still not been instructed on the issue of the computation. This coming ten (10) months after the orders were made, is indication enough that the respondent does not intend to comply with the orders of the court.
11. The claimant's computation dated August 24, 2022 and filed on September 16, 2022, shows that a sum of Kshs 5,484,444.00/- is owed to the claimant's membership for the period January, 2018 to December, 2019.
12. The computation was served on the respondent as evidenced by a return of service filed before this court. The computation is not contested and even at the hearing, counsel for the respondent did not object to the admission of the computation or in any other way seek to controvert the sums therein.
13. I conclude by entering judgment against the respondent and in favour of the claimant in the sum of Kshs 5,484,444.00, as outlined in the computation dated August 24, 2022.
14. The respondent will bear the costs of the suit together with interest from February 10, 2022.
15. Orders accordingly.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT KISUMU THIS 19TH DAY OF JANUARY, 2023.**

**CHRISTINE N BAARI**

**JUDGE**

**Appearance:**

Mr E Ngame present for the claimant

Ms Nyakongo h/b for Mr Ngala for the respondent

Ms Christine Omollo-C/A

