



Kenya Aviation Workers Union v Kenya Airports Authority (Cause E913 of 2022) [2023] KEELRC 674 (KLR) (16 March 2023) (Judgment)

Neutral citation: [2023] KEELRC 674 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E913 OF 2022
BOM MANANI, J
MARCH 16, 2023**

**BETWEEN
THE KENYA AVIATION WORKERS UNION CLAIMANT
AND
THE KENYA AIRPORTS AUTHORITY RESPONDENT**

JUDGMENT

1. Through this claim, the claimant seeks for orders that, *inter alia*, the respondent be compelled to deduct and remit union dues and agency fees from the respondent's employees who are either members of the claimant or are benefiting from the Collective Bargaining Agreement (CBA) which the parties negotiated, signed and registered in court on February 12, 2015.
2. The statement of claim was served on the respondent on December 14, 2022. An affidavit of service was subsequently filed in court.
3. The matter was scheduled for pre-trial conference on January 19, 2023. A mention notice was served and an affidavit of service filed.
4. On January 19, 2023, matter was listed for hearing on February 27, 2023 as undefended, the respondent having failed to appear. On February 27, 2023, the claimant's witness testified. He adopted his witness statement on record and prayed for the reliefs in the statement of claim.
5. According to the witness, the claimant and respondent have a subsisting recognition agreement. Pursuant to this agreement, the parties successfully negotiated and caused to be registered a CBA. A copy of the CBA is filed in court as document one on the claimant's list of documents dated November 15, 2022. The claimant's witness has filed evidence showing that the CBA was registered in court on February 12, 2015.



6. The CBA relates to the parties to this action. Its validity period was to run between January 1, 2014 and December 31, 2015.
7. The claimant asserts that the CBA aforesaid remains in force and is applicable to the parties since they are yet to negotiate a new instrument. The respondent did not controvert this evidence.
8. In view of the relation between the parties, it is the claimant's case that the respondent is duty bound to make union deductions in respect of members of the claimant who are employees of the respondent. Further, that the respondent is bound to make deductions towards agency fees for individuals who are non-members of the claimant but who are benefiting from the claimant's efforts.
9. The suit being undefended and on the basis of the prima facie evidence on record, i find that the claimant has established its case. Accordingly, i enter judgment for the claimant as set out in paragraph 10 below.

Determination

10. Judgment is entered for the claimant against the respondent in the following terms:-

a)

A declaration is hereby issued that by failing to deduct and remit to the claimant union dues from the claimant's members who are employees of the respondent and agency fees from non-members of the claimant but who continue to benefit from the CBA negotiated between the claimant and the respondent, the respondent has violated and breached the provisions of sections 48 and 49 of the *Labour Relations Act*.

b)

An order is issued directing the respondent to deduct and remit to the claimant union dues and agency fees for the period from September 2022 onwards for the individuals mentioned in paragraph a) above and whose particulars the claimant shall furnish the respondent.

c)

The respondent by itself or through its employees, servants or authorized agents is restrained from interfering with the deduction and collection and remittance of union dues aforesaid.

d)

Costs of the claim are granted to the claimant.

DATED, SIGNED AND DELIVERED ON THE 16TH DAY OF MARCH, 2023

B. O. M. MANANI

JUDGE

In the presence of:

..... for the Claimant

.....for the Respondent

ORDER

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent,



the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

B. O. M MANANI

