



**Transport Workers Union-Kenya v Market Service Station/Market Car Hire  
(Cause E504 of 2022) [2023] KEELRC 1230 (KLR) (18 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1230 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E504 OF 2022**

**L NDOLO, J**

**MAY 18, 2023**

**BETWEEN**

**TRANSPORT WORKERS UNION-KENYA ..... CLAIMANT**

**AND**

**MARKET SERVICE STATION/MARKET CAR HIRE ..... RESPONDENT**

**RULING**

1. On 19<sup>th</sup> July 2022, the Claimant filed a Memorandum of Claim, citing the issues in dispute as:
  - a. Refusal by the Respondent to review the parties' Collective Bargaining Agreement (CBA) for the year 2022/2023; and
  - b. Illegal threats by the Respondent to unlawfully terminate its employees' union membership.
2. In the Memorandum of Claim, the Claimant seeks the following remedies:
  - a. An order directing the Respondent to continue remitting monthly trade union dues and/or agency fees within the provisions of Sections 48 & 50 of the *Labour Relations Act* and Clause 1.2 of the parties' CBA;
  - b. An order compelling the Respondent to enter into negotiation for review of the parties' CBA for the period 2022/2023; and
  - c. An order restraining the Respondent from unfairly terminating, inducing and forcing the unionised employees to revoke their union membership.
3. Alongside the Memorandum of Claim, the Claimant filed a Notice of Motion seeking the following reliefs:



- a. An order directing the Respondent to continue remitting to the Claimant trade union dues and/or agency fees as per Sections 48 & 50 of the [Labour Relations Act](#) and Clause 1.2 of the parties' CBA; and
  - b. An order compelling the Respondent to enter into negotiation for review of the parties' CBA for the period 2022/2023.
4. The Notice of Motion is the subject of this ruling. In response to the Motion, the Respondent filed a replying affidavit sworn by its Managing Director, Anand Radia on 25<sup>th</sup> July 2022.
  5. He depones that the Respondent has been diligently remitting trade union dues to the Claimant as instructed by its employees.
  6. Radia concedes that the Respondent had a CBA with the Claimant. He however states that the Respondent's employees, who were members of the Claimant Union, were dissatisfied with the services rendered by the Union and had therefore decided to discontinue their contributions.
  7. He adds that this development was communicated to the Claimant by letter dated 31<sup>st</sup> March 2022. In addition, the Respondent is said to have forwarded letters from the employees, notifying the Claimant that they were proceeding to stop their contributions.
  8. Radia maintains that the Claimant was duly notified of the decision by the unionisable employees of the Respondent to discontinue their union membership.
  9. Reading the parties' pleadings with respect to the Claimant's Notice of Motion, I find that there are many issues of fact that are highly contested. In my view, these are issues can only be determined in full trial. Further, the prayers sought in the Motion are similar to those sought in the main claim.
  10. In the circumstances, I find and hold that the application dated 19<sup>th</sup> July 2022 is without merit and consequently, dismiss it with costs in the cause.
  11. Orders accordingly.

**DELIVERED VIRTUALLY AT NAIROBI THIS 18<sup>TH</sup> DAY OF MAY 2023**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

Mr. Ndege (Union Representative) for the Claimant

Mr. Mwangale for the Respondent

