



Kenya Union of Entertainment & Music Industry Employees v Multi Media University of Kenya (Cause 759 of 2018) [2023] KEELRC 1803 (KLR) (27 July 2023) (Ruling)

Neutral citation: [2023] KEELRC 1803 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 759 OF 2018**

**L NDOLO, J
JULY 27, 2023**

BETWEEN

**KENYA UNION OF ENTERTAINMENT & MUSIC INDUSTRY
EMPLOYEES CLAIMANT**

AND

MULTI MEDIA UNIVERSITY OF KENYA RESPONDENT

RULING

1. Pursuant to a dispute regarding remittance of union dues by the Respondent to the Claimant, I directed the Respondent's Vice Chancellor, Prof Festus Kaberia to appear in court to produce documents showing remittances made to the Claimant Union.
2. When the Vice Chancellor appeared before me, it emerged that some union dues had been paid to the Claimant. The parties were however in dispute as to whether there were any members of the Claimant still in the Respondent's employment. This is the issue that the Court is called upon to determine.
3. In an affidavit sworn by the Respondent's Legal Officer, Wilson Kagwe, on February 17, 2023, it is deponed that as at September 23, 2021, there were eight (8) employees who were members of the Claimant Union.
4. Kagwe gives the names of these employees as follows:
 - a. Mturuciu Mercy Gaicugi
 - b. Ibrahim Abdikadir
 - c. Mbete Catherine
 - d. Jerono Caroline
 - e. Mmata Jacqueline



- f. Chacha Emmanuel
- g. Egobwa Oliver (Deceased)
5. Kagwe depones that vide a circular dated July 20, 2020, the University Council resolved that the University Hotel, where these employees were deployed, be transformed from a Hotel to a University Hostel.
6. He adds that the employees were absorbed in different departments within the University, thus detaching them from the Union and consequently, deduction and remittance of union dues.
7. Kagwe swore a further affidavit on March 27, 2023 in which he reproduced the list of employees who the Respondent maintains are no longer members of the Union, adding the name of Kairuthi Jane.
8. The Claimant filed its own affidavit sworn by the General Secretary, Job W Mucuha on April 12, 2023.
9. Mucuha depones that the Respondent has not presented any evidence to support its averments regarding the 8 employees who are said to have ceased being members of the Union. He points out that there has been no withdrawal of membership in line with Section 48 of the [Labour Relations Act](#).
10. The Respondent's case is that the Claimant no longer has any members within its establishment. In response, the Claimant states that the Respondent has not adduced any evidence to support its assertion in this regard.
11. Section 48 of the [Labour Relations Act](#) provides the avenue for an employer to stop deducting union dues on account of a serving employee. The set procedure is that the employee writes to the employer communicating the decision to leave the union, upon which the employer issues notification to the union. It is not open to the employer to make a unilateral decision to stop deduction of union dues under the pretext that the employee has been transferred from one department to another.
12. Moreover, the Respondent's averments as to the reason why it had stopped deduction and remittance of union dues are not backed by any evidence. There was no disclosure regarding the new positions assigned to the employees that ostensibly placed them outside the sector covered by the Claimant Union.
13. For the foregoing reasons, I find and hold that the unilateral action by the Respondent to stop deduction and remittance of union dues was unlawful.
14. The Respondent is therefore directed to forthwith resume deduction and remittance of union dues on account of the Claimant's members within its establishment.
15. Each party will bear their own costs.
16. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 27TH DAY OF JULY 2023

LINNET NDOLO

JUDGE

Appearance:

Mr. Mucuha (Union Representative) for the Claimant

Mr. Mugo for the Respondent

