



**Lang'at v First Community Bank Limited (Cause 774 of 2019)  
[2023] KEELRC 2662 (KLR) (30 October 2023) (Judgment)**

Neutral citation: [2023] KEELRC 2662 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 774 OF 2019  
B ONGAYA, J  
OCTOBER 30, 2023**

**BETWEEN**

**LAWRENCE CHERUIYOT LANG'AT ..... CLAIMANT**

**AND**

**FIRST COMMUNITY BANK LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed the memorandum of claim on 15.11.2019 through Ochieng, Kokul & Velo Advocates. The claimant alleged failure to be paid terminal benefits and compensation for unlawful or wrongful termination. The claimant prayed for orders that the reasons for termination were unlawful; refusal to pay terminal benefits was unlawful; a finding of breach of *Employment Act* and other labour laws; payment of a month's salary in lieu of notice Kshs.100, 000.00 and compensation for unlawful termination Kshs.1, 300, 000.00; certificate of service; interest at court rates; costs; and, any other relief the court may deem just and fit to grant.
2. The claimant's case is that he was employed by the respondent by the letter dated 12.06.2017 as a Management Officer reporting to the Manager, Financing Administration Unit per letter of offer of employment and contract dated 12.06.2017. The agreed monthly payment was Kshs.100, 000.00. He successfully served the probationary period of 6 months and was confirmed in appointment per letter dated 22.12.2017 in the role of Finance Administration Officer effective 01.12.2017. He received a letter to show cause dated 11.03.2019 on account that he had failed to pay outstanding loan amount of Kshs.57, 947.00 advanced to him by Platinum Credit and he had issued bouncing cheques purporting to repay the loan in that regard. He was to submit a response by 13.03.2019. Another letter to show cause was dated 08.04.2019 on account that his staff account was in an overdrawn position and that he had failed to regularise the same as he had promised to do. He was to reply by 09.04. 2019. Both letters stated that the allegations amounted to breach of the respondent's policies. By letter dated 11.04.2019 he was invited for disciplinary hearing in view of the allegations and he was entitled to attend with a staff representative of his choice. The minutes of the disciplinary hearing of 18.04.2019 exhibited for



the claimant show that with respect to the outstanding loan he admitted he issued bouncing cheques and the Human Resource Department had declined to grant him salary advance to repay the loan. On overdrawn amounts on his account he had issued cheques to regularise which were considered but he had by M-pesa deposited on his account only Kshs.40,000.00 instead of Kshs.47, 333.00 to regularise as expected. The minutes show that he informed the disciplinary panel that he was in deep financial problems and was requesting for support from the bank as his employer and he asked for leniency on the two issues. He signed the minutes.

3. The claimant received the termination letter dated 10.05.2019 upon the reasons in the two letters to show cause. He was to be paid salary up to 10.05.2019 and 7 accrued leave days less liability to the respondent being staff facility car loan of Kshs.1, 152, 820.00.
4. The claimant claims as prayed for.
5. The memorandum of response was filed on 20.12.2019 through Mulanya & Maondo Advocates. The respondent admitted employing the claimant and pleaded that the claimant was dismissed on account of breaching the general terms and conditions in the contract of employment and in the respondent's Human Resource Manual on employee conduct and upon the established allegations in the two letters to show cause. The due disciplinary procedure was followed, his final dues calculated but he had a liability to the respondent. The respondent prayed that the suit be dismissed with costs.
6. The claimant testified that the terms of service did not allow him to have his bank account overdrawn. Further, he testified that he was not allowed to engage in conduct that would embarrass the bank. He confirmed issuing bouncing cheques to Platinum Credit and he was aware that Platinum Credit wrote a complaint to the respondent in that regard. He also testified confirming that the Human Resource Manual provided that he was to maintain high standards of personal behaviour and cleanliness of both self and premises. In his testimony he confirmed he received the letter to show cause. He responded, he attended disciplinary hearing and subsequently received the dismissal letter. He confirmed signing the final computation of his dues which indicated he owed the respondent Kshs.1, 152, 820.00. The respondent's testimony was confirmed by the respondent's witness in like account of the circumstances of the dismissal. By that evidence the Court finds that as at termination the reasons for termination were genuine per section 43 of the *Employment Act* and were not unfair as they related to the claimant's conduct, compatibility and the respondent's operational requirements per section 45 of the Act. Further, the Court finds that the respondent accorded the claimant due process of a notice and a hearing per section 41 of the Act. The claimant has failed to establish the reliefs as prayed for but he is otherwise entitled to a certificate of service per section 51 of the Act and in which consideration, each party to bear own costs.

In conclusion, judgment is hereby entered for the parties for:

- a. The respondent to deliver the certificate of service by 15.11.2023.
- b. Each party to bear own costs of the suit.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS MONDAY 30TH OCTOBER, 2023.**

**BYRAM ONGAYA**

**PRINCIPAL JUDGE**

