



Kenya Union of Commercial Food and Allied Workers v Rumukia Farmers Cooperative Union Limited (Cause E009 of 2023) [2023] KEELRC 3333 (KLR) (20 December 2023) (Judgment)

Neutral citation: [2023] KEELRC 3333 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI
CAUSE E009 OF 2023
ON MAKAU, J
DECEMBER 20, 2023**

BETWEEN

**KENYA UNION OF COMERCIAL FOOD AND ALLIED
WORKERS CLAIMANT**

AND

RUMUKIA FARMERS COOPERATIVE UNION LIMITED RESPONDENT

JUDGMENT

1. The claimant is trade union and has concluded a collective Bargaining Agreement with the respondent. The two have differed over the payment of terminal benefits to three (3) employees of the respondent (hereinafter referred to as ‘The grievants’) who are members of the union.
2. The grievants were employed by the respondent in various positions and on diverse dates until 30th April, 2020 when they retired on attaining the age of 60 years. As at that time, the 1st grievant was earning kshs. 34,021 as basic salary plus Kshs. 15,309 as house allowance. The 2nd and 3rd grievant were earning Kshs. 11,577 basic salary plus house allowance of kshs. 2,894.
3. The matter was conciliated upon before the Labour Officer Nyeri, one Joan Wangari whereby, on 28th November 2020, the amount payable was agreed plus the mode of payment, being three instalments with effect from January 2021. In the agreement, the first grievant (James Mwangi Ngunjiri) was entitled to a total of kshs. 1,496,890, second grievant (Bernard Mwangi Wanjau) kshs. 546,283 and the third grievant (Julius Gitonga Maina) Kshs. 190, 260.
4. The respondent breached the conciliation agreement and claimant brought this suit on behalf of the grievants, seeking payment of their gratuity balances as follow: -
 - a. James Mwangi Ngunjiri kshs.1,496,890
 - b. Bernard Mwangi Wanjau kshs. 546,283



- c. Julius Gitonga Maina Kshs. 190, 260.
 - d. Interest at court rates from the date of retirement.
 - e. Costs of the suit.
5. The respondent was served with summons and the pleadings but failed to enter appearance and the suit proceeded by way of proof.

Evidence

6. The Claimant filed witness statements and documents for each grievant. Thereafter each grievant testified and produced his respective documents as exhibits.

Submissions

7. The Claimant submitted that the grievants are entitled to their terminal dues as agreed between the parties in December 2020. It further submitted that the respondent did not deny the claim after being served with the court process.

Issues for determination & analysis

8. I have considered the Memorandum of Claim, the uncontested evidence by the grievants and the submissions filed. There is no dispute the three grievants were employees of the Respondent and they have since retired from service. It is also a fact that grievants are entitled to service gratuity under clause 16 of the CBA and the conciliation agreement dated 23rd November 2020. The main issue falling for determination is whether the judgment should be entered for the claimant as prayed.

9. The claim has not been controverted by the respondent. There is also an express settlement agreement dated 23rd November 2020 between the parties herein in which the respondent admitted owing the grievants the sums claimed herein. The agreement was adopted by the Labour officer who was appointed as the conciliator by the Cabinet Secretary. Consequently, I will not belabor the point in such a straight forward case.

10. Accordingly, I enter judgment for the claimant as follows:

James Mwangi Ngunjiri Kshs.1,496,890

Bernard Mwangi Wanjau Kshs. 546,283

Julius Gitonga Maina Kshs. 190, 260

The award is subject to statutory deductions but in addition to costs and interest at court rates from the date of filing suit.

DATED, SIGNED AND DELIVERED AT NYERI THIS 20TH DAY OF DECEMBER, 2023.

ONESMUS N MAKAU

JUDGE

Order

This judgment has been delivered to the parties via Teams video conferencing with their consent, 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.

ONESMUS N. MAKAU



JUDGE

