



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT NAIROBI
CAUSE NUMBER E303 OF 2020

BETWEEN

HARLIET MUKAMI NJENGA CLAIMANT

VERSUS

TSAVO CITY LIMITED RESPONDENT

RULING

1. The Claimant filed her Statement of Claim on 16th July 2020.
2. She states that she was employed by the Respondent on or about the year 2015.
3. Her contract was terminated on or about January 2017.
4. She was recalled by the Respondent, and re-engaged as a Sales Representative in February 2019.
5. However, in October 2019, the Respondent once again terminated the Claimant's contract.
6. She filed this Claim on 16th July 2020.
7. The Respondent has filed a Notice of Preliminary Objection, based on Section 90 of the Employment Act. It is submitted that the Claim is time-barred under the 3-year rule.
8. It was agreed that the Preliminary Objection is determined by way of Written Submissions.

The Court Finds: -

9. The Claimant was employed by the Respondent twice, under separate contracts, which terminated on different dates. The contract of 2015-2017, terminated in January 2017. The claims with respect to this contract, cannot be valid in July 2020, when the Claim was filed. The Claimant has pleaded the contract separately, in the sum of Kshs. 9,970,000.
10. The Court does not have jurisdiction to deal with the contract of 2015 -2017.
11. It does however have jurisdiction over the second contract for the period February –October 2019. The sum claimed is Kshs. 11,295,437. The cause of action arose in February 2019, and the Claim with regard to the second contract, was not time barred on filing in July 2020.
12. The pleadings and remedies relating to the first contract are hereby expunged from the record.
13. The Claimant is free to prosecute the Claim with regard to the second contract.

IN SUM, IT IS ORDERED: -

- a. *The Pleadings and Remedies under the first contract are expunged from the record.*

b. The Claimant is free to prosecute the Claim with regard to the second contract.

c. Costs in the cause.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 25TH DAY OF FEBRUARY 2022.

JAMES RIKA

JUDGE