



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO.1692 OF 2016**

*(Before Hon. Lady Justice Anna Ngibuini Mwaure)*

**KENNEDY GIMUMU UWODO.....CLAIMANT**

**VERSUS**

**HARNET WORK COMPANY LIMITED.....RESPONDENT**

**JUDGEMENT**

**INTRODUCTION**

1. This is an undefended claim dated 23<sup>rd</sup> August, 2016. The Respondent was served with summons and the claim on 16<sup>th</sup> November, 2017 but he did not put a response.

**CLAIMANT'S FACTS**

2. The Claimant states he was employed by the Respondent as a turn boy from January, 2010 until 28<sup>th</sup> August, 2014.

He was unfairly terminated. He says at the time of termination the respondent failed to pay his dues as particularized hereunder;-

- (a) One month salary in lieu of notice Kshs.10,000/=
- (b) Severance pay 2010 Kshs.10,000/=
- (c) Unutilized leave days 4 years 8 months Kshs.46,700/=
- (d) Overtime and public holidays Kshs.232,000/=
- (e) General damages for unfair termination equivalent to 12 months.

**DETERMINATION**

3. The case before me is one of those whose pleadings are usually casually drafted. There are no documents whatsoever from the Claimant to demonstrate the period he was employed and how he was terminated.

There is no payslips or any proof that the Claimant worked for the Respondent.

4. In any event the Claimant has filed an affidavit of service to prove that he served the summons and the memorandum of claim on the Respondent dated 31<sup>st</sup> August, 2016. The Respondent did not file a response and indeed has not participated in the proceedings.

5. The Claimant claims he worked for the Respondent from 1<sup>st</sup> January, 2010 to 28<sup>th</sup> August, 2014 as a turn boy. He says on 28<sup>th</sup> August, 2014 he was dismissed unlawfully and without any justifiable reason.

6. The Claimant then says he was not paid his terminal dues at the termination.

7. The Respondent having failed to respond did not therefore controvert the Claimant's claim. I find I have no choice but to enter judgment against the Claimant for unlawful termination and award him the following remedies:-

- (a) One month salary in lieu of notice Kshs.10,000/=.
- (b) Severance pay there are 0 no particulars and so is declined.
- (c) Unutilized leave days for 4 years and 8 months Kshs.46,700.
- (d) Overtime and public holiday no particulars and so is declined.
- (e) General damages at 2 months Kshs.20,000/=

Total award is as follows. Kshs.76,700/=.

Orders accordingly.

**DELIVERED, DATED AND SIGNED IN NAIROBI THIS 11TH DAY OF FEBRUARY 2022.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2) (d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**