



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 329 OF 2016

CLIFFORD OCHIENG ABILA.....CLAIMANT

VERSUS

NATIONAL CEREALS AND PRODUCE BOARD.....RESPONDENT

JUDGMENT

1. Clifford Ochieng Abila (the Claimant) sued the National Cereals Produce Board (the Respondent) on 14 November 2016 alleging unfair termination of employment.
2. The Respondent filed a Response on 19 January 2017.
3. When the Cause came up for hearing on 30 July 2019, the Respondent secured an adjournment to enable it file documents and witness statements.
4. The Court directed it to file and serve the documents within 7-days. The Respondent did not comply with the order.
5. When the Cause next came up for hearing on 23 January 2020, the Court declined to allow introduction of documents by the Respondent since about 8-months had lapsed since it got leave to file and serve its documents.
6. The hearing commenced and the Claimant testified.
7. On 3 July 2020, the Respondent filed an application seeking review of the order declining to accept its documents.
8. The Court considered the motion and, in a Ruling, delivered on 11 February 2021, the application was dismissed.
9. When the Cause came up on 30 November 2021 for the taking of the Respondent's case, it opted to close its case without leading any evidence. The reason given was that the Court had declined its application to file documents/witness statements on 11 February 2021.
10. The Respondent's case was thus closed and the parties directed to file and exchange submissions.
11. The Claimant filed his submissions on 29 December 2021, while the Respondent filed its submissions on 26 January 2022.
12. The Court has considered the pleadings, evidence, and submissions and identified the Issues for determination as examined hereunder.

Unfair termination of employment Procedural fairness

13. The Respondent issued a show-cause to the Claimant on 4 November 2015. The notice requested him to respond within 72 hours.
14. The Claimant responded on 9 November 2015.
15. On 16 November 2015, the Respondent suspended the Claimant to enable investigations to be completed and on 19 November 2015, it invited him to appear for an oral hearing on 24 November 2015.
16. The invitation advised the Claimant of the right to be accompanied during the hearing.

