



**Nyamai v Badar Hardware Limited (Miscellaneous Application
E058 of 2021) [2022] KEELRC 1404 (KLR) (30 June 2022) (Directions)**

Neutral citation: [2022] KEELRC 1404 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
MISCELLANEOUS APPLICATION E058 OF 2021**

**AK NZEI, J
JUNE 30, 2022**

BETWEEN

JEPHTHAH MANTHI NYAMAI APPLICANT

AND

BADAR HARDWARE LIMITED RESPONDENT

DIRECTIONS

1. On 8th December 2021, the Applicant filed an Amended Notice of Motion dated 2nd December 2021 and sought the following substantive orders:
 - a) that this Court do adopt as Judgment of the court the award of the Director of Occupational Safety and Health Officer(sic).
 - b) that Judgment be entered for the Applicant against the Respondent for ksh. 1,999,222 being the amount assessed under the Work Injury Benefits Act.
 - c) that the Court do award interest on the amount from the date of assessment until payment in full.
 - d) that the Court awards any other relief as it may deem fit.
2. The application is supported by the Applicant's Supporting Affidavit sworn on 2nd December 2021 and a further supporting affidavit sworn on 24th January 2022. A total of ten documents have been annexed to the said two affidavits. The Applicant has, however, not annexed to his said affidavits the all-important Dosh Form 4, the document that is supposed to contain the Director of Occupational Safety and Health Services' decision on the Applicant's degree of incapacity, amount of compensation awarded by the Director, and the date of such decision/award.
3. The application is opposed by the Respondent vide a Replying Affidavit of one Fredrick E.M. Ondako sworn on 17th December 2021.



4. Parties herein filed written submissions on the application pursuant to the Court's directions in that regard.
5. Since none of the parties filed Dosh form 4 or any other document containing the Director's decision under WIBA, and in view of the fact that it is in the interest of justice that the said document be filed in Court before the Court can determine the application herein in one way or the other, I give the following further directions:-
 - a) the Applicant shall file a supplementary affidavit within seven days, and place before this Court Doshform 4 or such other document containing the decision by the Director of Occupational Safety and Health Services, if such document exists.
 - b) the Respondent may file a further affidavit in response to the application upon being served with the supplementary affidavit, if need be.
 - c) mention on 27th July 2022 to fix a date for ruling.
 - d) the date earlier fixed for ruling (30th June 2022) is hereby vacated.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 30TH DAY OF JUNE 2022

AGNES KITIKU NZEI

JUDGE

ORDER

In view of restrictions on physical Court operations occasioned by the COVID-19 Pandemic, these Directions have been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

..... for Applicant

..... for Respondent

