



**Kabinga v Core Construction Limited (Cause 1306 of 2017)
[2022] KEELRC 3865 (KLR) (28 July 2022) (Judgment)**

Neutral citation: [2022] KEELRC 3865 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1306 OF 2017
MN NDUMA, J
JULY 28, 2022**

BETWEEN

ZETH ABERE KABINGA CLAIMANT

AND

CORE CONSTRUCTION LIMITED RESPONDENT

JUDGMENT

1. The claimant filed the suit on 11th July, 2017 praying for the following reliefs: -
 - a. A declaration that his termination by the Respondent was unfair.
 - b. Terminal dues as herein below tabulated: -
 - i. One month in lieu of Notice..... Kshs 24,000.00
 - ii. Annual Leave (year 2016)
(21x800) Kshs 16,800.00
 - iii. Overtime for work done on
Sundays (2016) (100x1.5.36
days)Kshs 5,400.00
 - (iv) Overtime for work done on Sundays
compensation forKshs 3,600.00
2. The suit is undefended. C.W.1, the claimant testified in formal proof of the particulars of claim and the reliefs sought that he was employed by the respondent as a Steel Fixer on 17th July, 2015 at a monthly



salary of Kshs 24,000 paid *vide* Mpesa and later by cash. That he worked six days a week from 8.00 am. to 5 p.m. That he worked diligently until 22nd September, 2016 when the respondent terminated his services verbally without notice, notice to show cause, a hearing or any reason given for the termination. That he was simply asked to go home by his supervisor on the morning of 22nd September, 2016 when he reported to work. That all efforts to be given reasons for the termination have failed. The claimant reported the matter to the Labour office. The respondent was summoned for conciliation but failed to attend. Demand notice was issued which was equally ignored hence the suit. The claimant prays to be awarded as prayed.

3. The Court has considered the undisputed facts of the case and is satisfied that the termination of the employment of the claimant was for no reason given and without following a fair procedure in violation of Sections 36, 41, 43 and 45 of the Employment Act 2007. That the claimant is accordingly entitled to compensation in terms of Section 49(1) (c) and (4) of the Act.
4. In this respect, the claimant worked for a period of more than one year faithfully and diligently and did not contribute to the termination. The claimant suffered loss and damage upon sudden termination of employment without notice and or any reason assigned. The claimant was not compensated for the loss nor paid any terminal benefits.
5. The Court has considered the case of Kenfreight (E.A.) Limited v Benson K. Nguti [2014] eKLR and awards the claimant:
 - i. The equivalent of two (2) months salary in compensation for the unlawful and unfair termination of employment in the sum of Kshs 48,000.
 - ii. The Court also awards the claimant terminal benefits duly proved as owed to the claimant being: -
 - b. One -month salary in lieu of notice Kshs 24,000.
 - c. Kshs 21,800 in lieu of leave days not taken.
 - d. Kshs 9,000 being unpaid overtime.
Total award.....Kshs 102,800
 - e. Interest at Court rates from the date of judgment till payment in full.
 - (f) Costs of the suit.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 28TH DAY OF JULY, 2022.

MATHEWS N. NDUMA

JUDGE

Appearance

Mr. Mukonyi for claimant

Ekale – Court Assistant

