



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mohamed v Jomvu Gas Station (Cause 721 of 2015)  
[2022] KEELRC 1707 (KLR) (22 July 2022) (Judgment)**

Neutral citation: [2022] KEELRC 1707 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE 721 OF 2015  
B ONGAYA, J  
JULY 22, 2022**

**BETWEEN**

**MOHAMED ABDALLAH MOHAMED ..... CLAIMANT**

**AND**

**JOMVU GAS STATION ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed the memorandum of claim on 22.09.2015 through G.A. Okumu & Company Advocates. The claimant prayed for judgment against the respondent for:
  - a. Outstanding Emoluments Kshs 263,611
  - b. Costs of the suit
  - c. Interest on (a) and (b) above until payment in full
  - d. Any other relief or further relief as this Honourable may consider just fit.
2. The respondent filed on 09.11.2015 the response to the claim through Oduor Siminyu & Company Advocates. The respondent prayed that the claimant's suit be dismissed with costs.
3. The claimant's advocate stated on the hearing date that the claimant is in Nairobi and he had been denied permission by his current employer to enable him attend Court for the hearing of his suit. Further, that he was not allowed to use his mobile phone at his place of work. Thus, the claimant did not testify to support his case. The parties agreed that the case be determined on the basis of pleadings and documents filed for parties.
4. The respondent's advocate stated that he would not also be calling any witness to testify in the matter. The Court has considered the pleadings and the final submissions on record.

The Court makes the following pertinent findings.



5. To answer the 1<sup>st</sup> issue for determination the Court returns that the claimant is not entitled to any of the remedies as prayed for.
6. First the basis of the calculations for the amount claimed was not pleaded at all.
7. Second the claims are for liquidated damages requiring specific pleading and strict evidence so as to be awarded by the Court. The claimant did not provide evidence to show he worked overtime hours as alleged and that he actually worked on the alleged days of public holidays. The claims will collapse as not established and as unjustifiable.
8. The parties failed to avail their respective witnesses and there will be no orders on costs.

In conclusion the suit is hereby dismissed with no orders on costs.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT MOMBASA THIS FRIDAY 22<sup>ND</sup> JULY, 2022.**

**BYRAM ONGAYA**

**JUDGE**

