



REPUBLIC OF KENYA



Kenya National Private Security Workers Union v Taidy'S Restaurant Limited (Cause 1910 of 2015) [2022] KEELRC 12696 (KLR) (29 September 2022) (Judgment)

Neutral citation: [2022] KEELRC 12696 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1910 OF 2015
J RIKA, J
SEPTEMBER 29, 2022**

**BETWEEN
KENYA NATIONAL PRIVATE SECURITY WORKERS UNION CLAIMANT
AND
TAIDY'S RESTAURANT LIMITED RESPONDENT**

JUDGMENT

1. This claim is undefended.
2. It is presented by the claimant union on behalf of its member Jane Kanairo [grievant].
3. Kanairo was employed by the respondent as a security guard on July 27, 2013. Her first salary was Kshs 7,200 monthly.
4. It was reviewed to Kshs 9,000 monthly. She was suspended on May 26, 2014, on allegation that she had failed to report to work on May 23, 2014.
5. She explained that her child was gravely ill on this date, making it impossible for her to report to work. She had permission to be away. On June 3, 2014 however, the respondent terminated her contract. She states that the respondent's security supervisor was behind her woes, after the grievant had reported him to Muthangari police station for confiscating her personal belongings.
6. The claimant reported the existence of the dispute to the ministry of labour on June 9, 2015. The respondent did not cooperate and conciliator issued certificate of unresolved dispute under section 69 of the *Labour Relations Act*, 2007. The claimant prays the court to find termination was unfair and unlawful, and award judgment as follows: -
 - i. Declaration that termination was unfair.
 - ii. Notice at Kshs 10,912.



- iii. Underpayment of wages for 10 months at Kshs 19,120.
 - iv. Unpaid house allowance at Kshs 16,360.
 - v. Unpaid standard overtime at Kshs 63,289.
 - vi. Pro –rata leave at Kshs 1,697.
 - vii. SACCO at Kshs 500 for 5 months at Kshs 2,500.
 - viii. Money owed by yourselves at Kshs 1,200.
 - ix. 12 months’ salary in compensation for unfair termination.
 - x. Certificate of service.
 - xi. Punitive damages.
 - xii. Costs and interest.
7. The grievant testified on June 9, 2022, adopting her pleadings and documents on record. The claim was last mentioned on July 8, 2022 when the claimant confirmed filing of its submissions.

The Court Finds: -

8. The grievant worked for 11 months. Her prayer for compensation equivalent of 12 months’ salary, is disproportionate to the period of service. She is allowed equivalent of 3 months’ salary in compensation for unfair termination.
9. The prayer for punitive damages is without foundation. It is unsupported in evidence and fact. It is declined.
10. There is adequate, unchallenged evidential material to support the other prayers. There is adequate statutory and case-law invoked by the grievant, to back up her prayers.
11. The court did not however, understand her prayer [viii], for “ money owed by yourselves at Kshs 1,200].” It was not explained in the pleadings or evidence on record. The prayer is declined.

In sum it is ordered: -

- a. The claim is allowed in terms of prayers [i], [ii] [iii] [iv] [v] [vi], [vii] and [x].
- b. Prayer [ix] is allowed at equivalent of 3 months’ salary.
- c. Prayers [viii] and [xi] are rejected.
- d. Costs to the claimant.
- e. Interest granted at court rates from the date of judgment till decree is satisfied in full.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 29TH DAY OF SEPTEMBER, 2022.

JAMES RIKA

JUDGE

