



**Munywoki v Delmonte Kenya Limited (Cause 8 of 2017)
[2022] KEELRC 12692 (KLR) (29 September 2022) (Judgment)**

Neutral citation: [2022] KEELRC 12692 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 8 OF 2017
J RIKA, J
SEPTEMBER 29, 2022**

BETWEEN

JOSEPH WAMBUA MUNYWOKI CLAIMANT

AND

DELMONTE KENYA LIMITED RESPONDENT

JUDGMENT

1. The claim herein was dismissed on June 2, 2022 for non-attendance.
2. There was a counterclaim which the respondent, proceeded to prosecute by calling its industrial relations officer Jacob Lerma, who testified and closed the hearing on June 2, 2022.
3. The counterclaim is as follows - the claimant was a member of the Kenya Plantation and Agricultural Workers Union. The union and the respondent had a *CBA*, which was applicable to the claimant. The claimant resigned voluntarily on June 3, 2015, after serving for a period of 15 years.
4. Clause 11 [iii] of the *CBA* required that where an employee with over 5 years' unbroken service wished to terminate his contract, he would give the respondent a written notice of 80 days, or pay salary in lieu of notice of 80 days. The respondent had similar obligation to the employee in event it initiated termination.
5. The claimant did not issue notice or pay 80 days' salary to the respondent in lieu thereof. The respondent therefore counterclaims notice at kshs 57,600, based on a daily rate of kshs 720, payable to the claimant.
6. The court has had the opportunity to familiarize with a copy of the *CBA* exhibited by the respondent, and in particular, clause 11 [iii], and upholds the counterclaim.

It Is ordered: -



- a. The counterclaim is allowed in the sum of kshs 57,600.
- b. Interest granted on the said sum from the date of Judgment till decree is satisfied in full.
- c. Costs to the respondent.

**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

