



**Muchai v Phoenicia Hotel Nairobi (Cause 259 of 2018)  
[2022] KEELRC 12815 (KLR) (6 October 2022) (Judgment)**

Neutral citation: [2022] KEELRC 12815 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 259 OF 2018  
AN MWAURE, J  
OCTOBER 6, 2022**

**BETWEEN**

**EVA WANJIKU MUCHAI ..... CLAIMANT**

**AND**

**PHOENICIA HOTEL NAIROBI ..... RESPONDENT**

**JUDGMENT**

1. The Claimant in her statement of claim dated February 1, 2018 says she was employed by the Respondent on December 15, 2015 at a monthly salary of Kshs 30,000/-.
2. She says that on March 15, 2017 she was served with a notice to terminate her employment and she avers that prior to the termination she had never received a complaint nor been informed that her services were dissatisfactory. She in fact says she performed her tasks with hard work and commitment and was appointed as an events coordinator and that was a new position she introduced to the institution.
3. The claimant denies she had failed to perform her work in a satisfactory standard and says she had never been given any warning.
4. She avers that her termination therefore is unlawful and irregular and therefore pray that judgment be entered against the Respondent.
5. On September 26, 2018 the Court ordered the suit to proceed as an undefended claim as no defence had been entered. The statement of claim was purportedly served on the Respondent on April 20, 2018. An affidavit of service was filed on May 22, 2018.
6. The Respondent did not defend the suit therefore



## **Decision**

- 7 The Claimant in her claim says she was terminated with no valid reason or prior warning. There is a letter dated March 15, 2017 which has a logo of the Respondents' company which provides that the Claimant's employment was terminated effective the same day. There are no reasons given for that termination but she was informed that her part salary of February being Kshs 15,000/- and March would be paid to her. The Respondent did not file any response or documents to defend its case or even to assist the Court to make its determination. There is no evidence to refute the salary that was due to the Claimant save that letter of termination that informs her balance of her salary for February being Kshs 15,000/- would be paid to her. There is no evidence to provide it was balance of what.
- 8 The Claimant avers her salary was Kshs 30,000/- per month. In view of the fact that the Respondent did not tender any evidence to refute the Claimant's evidence the Court has no choice but to find the Claimant made a case against the Respondent for unlawful termination. I therefore enter judgment in favor of the Claimant.

## **Remedies**

9. In view of the fact that judgment has been entered in favour of the Claimant I award her 3 months' equivalent of salary as general damages totaling Kshs 90,000/- plus interest at Court rates from the date of judgment until payment in full.
- 10 Costs are also awarded to the Claimant
- 11 Orders accordingly.

**Delivered, dated and signed in Nairobi this 6<sup>th</sup>**

**October, 2022**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court had been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**ANNA NGIBUINI MWAURE**

**JUDGE**

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