



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 7 OF 2020

KENYA HOTELS & ALLIED WORKERS UNION.....CLAIMANT

v

LE-SAVANNA COUNTRY LODGE & HOTEL.....RESPONDENT

JUDGMENT

1. The Kenya Hotels & Allied Workers Union (the Union) sued Le-Savanna Country Lodge & Hotel (the Respondent), and the Issues in Dispute were stated as:

- (i) Refusal by the Respondent to deduct and remit union dues to the Claimant.
- (ii) Refusal by the Respondent to sign a recognition agreement.

2. On 9 December 2020, the Respondent sought leave to file and serve a Response out of time.

3. The Court directed the Respondent to file and serve its Response, witness statements and documents before 18 December 2020.

4. When the Cause came up for mention on 18 January 2021, the Union informed the Court that a Response had not been served upon it. The Court directed that the Cause proceeds to formal proof.

5. The Respondent only filed a Statement of Defence on 28 January 2021, outside the prescribed time and without obtaining further leave. The Response is struck out.

6. The Union indicated that it would proceed by way of the record and submissions to be filed, and the Court directed it to file and serve the submissions before 28 January 2021.

7. The submissions were filed on 27 January 2021.

8. The Court has considered the record and the submissions.

9. On or around 5 November 2018, the Union sent to the Respondent Form Ss with names of 71 employees who had joined it.

10. On 16 January 2019, the Union followed up with a request to the Respondent to grant it recognition.

11. The Respondent did not respond, and the Union reported a trade dispute to the Cabinet Secretary, Labour. The Cabinet Secretary appointed a Conciliator, and he requested the parties to submit their submissions on the dispute. He also called for joint meeting(s).

12. The Respondent did not attend any of the meeting(s). It also failed to make submissions forcing the Conciliator to prepare a report dated 15 July 2019.

13. The Conciliator made findings including that the Union had recruited 71 out of 100 unionisable employees of the Respondent thus attaining a simple majority threshold, there was no rival Union, and that Form Ss' had been delivered to the Respondent.

14. The report of the Conciliator was introduced in Court through a supporting affidavit which had been filed with a Motion filed with the Cause.

15. In consideration of the unchallenged evidence by the Union, the Court will enter judgment for the Union as follows:

(i) The Respondent to commence the deduction of union dues from the employees who signed the Form Ss and remit the same to the Union with effect from 30 April 2021.

(ii) In default, the Respondent to pay the dues from its own funds until compliance with (i) above.

(iii) The Respondent to sign a recognition agreement with the Union within 30 days of today.

16. The Respondent did not cooperate with the Conciliator who was performing a statutory function, and therefore it is ordered to pay the costs of the Cause.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN NAIROBI ON THIS 7TH DAY OF APRIL 2021.

RADIDO STEPHEN, MCIARB

JUDGE

APPEARANCES

For Union Ms Mwaka, Industrial Relations Officer

For Respondent S.M. Onyango & Associate Advocates

Court Assistant Chrispo Aura