



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**CAUSE NO. 401 OF 2017**

**ROBERT OUKO KOKIRO .....CLAIMANT**

**v**

**DIRECTOR, LAKE VICTORIA**

**ENVIRONMENT MANAGEMENT AUTHORITY.....1<sup>st</sup> RESPONDENT**

**PERMANENT SECRETARY, MINISTRY OF**

**ENVIRONMENT & MINERAL RESOURCES.....2<sup>nd</sup> RESPONDENT**

**JUDGMENT**

1. Robert Ouko Kokiro (the Claimant) sued the Director, Lake Victoria Environment Management Authority and the Permanent Secretary, Ministry of Environment and Mineral Resources (the Respondent) on 5 October 2017, and he stated the Issues in Dispute as:

Unfair termination of contract and withholding of the Claimant's dues.

2. Despite the Honourable Attorney General entering appearance for the Respondents, no Response to the Statement of Claim was filed.

3. On 8 October 2019, the Court ordered that the Cause proceeds to formal proof and the Claimant's testimony was taken on 11 March 2021. The Claimant thereafter filed his submissions on 11 May 2021.

4. The Court has considered the pleadings, evidence and submissions.

**Limitation**

5. The Claimant was on fixed-term contracts with the Respondents. The last contract was from 16 January 2013 and was to lapse on 30 April 2013 (a copy was not produced in Court).

6. The Claimant asserted that the contract was unlawfully terminated and that he was not issued with a written notice, but he failed to plead or disclose the exact date of termination.

7. The Claimant also alleged breach of contract in that the Respondents did not pay him wages for February, March and April 2013.

8. The Court will therefore assume that the alleged wrongs occurred on or around 30 April 2013.

9. In terms of section 90 of the Employment Act, 2007, the Claimant should have commenced legal action against the Respondents within 3-years, that is, on or before 30 April 2016.

10. The Claimant lodged his Memorandum of Claim in Court on 5 October 2017, outside the prescribed time.

11. The Court finds the cause of action presented by the Claimant statute (time) barred.

12. The Cause is dismissed with no order on costs.

**DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 1ST DAY OF JULY 2021.**

**RADIDO STEPHEN,**

**MCIARB JUDGE**

**Appearances**

For Claimant Mr Aduwo instructed by Mwamu & Co. Advocates

Respondents did not participate

Court Assistant Chrispo Aura