



**REPUBLIC OF KENYA**

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

**CAUSE NO. 32 OF 2019**

**CASTRO MOMANYI ONDIEKI.....CLAIMANT**

**-VERSUS-**

**KENYA METHODIST UNIVERSITY.....RESPONDENT**

**JUDGMENT**

1. The Claimant herein filed his Statement of Claim dated 26<sup>th</sup> April, 2019 on the 29<sup>th</sup> April, 2019 claiming for unpaid wages.
2. The claimant avers that he was employed by the Respondent vide part time contracts dated 21/11/2016 and another one dated 17.2.2017. In both these contracts he was to teach four units being BIRS-121, BIRS-222, BIRS-322 and BIRD-212 which were all undertaken in the Respondents main campus. Also that each unit was taught for 3 hours a session and each hour the Respondent paid him Kshs. 2,000.
3. The claimant stated that the Respondent had not paid him for all the 4 units taught for an entire semester.
4. Despite demand and notice to sue served on the Respondent, it has not paid him for all the four units he taught for an aggregate of 45 hours each totaling to Kshs. 360,000/.
5. The claimants therefore sought for the following Orders;-
  - a) **Unpaid wages of Kshs. 360,000/-.**
  - b) **Costs of suit.**
  - c) **Interest of (a) above**
6. The Respondent entered Appearance on the 6<sup>th</sup> November, 2019 and filed a response to the claim on the 19<sup>th</sup> December, 2019 contending that they have paid the claimants all his salary and is not indebted at all to the Respondent and attached a payment sheet indicating some payments and a cheque showing that the claimant was paid Kshs 35,437/- on 14<sup>th</sup> May, 2019.
7. This claim proceeded for hearing on the 21<sup>st</sup> September, 2021 in absence of the Respondent. The claimant adopted his witness and the list of documents which were filed on 29<sup>th</sup> April, 2019. In the document the claimant produced part time contract of 17<sup>th</sup> February, 2017 and a demand letter. In the further list of documents filed on 20<sup>th</sup> May,2019 he produced a cheque of Kshs.35,437/-, and the payment sheet of Kshs. 35,437/- and testified that he was only paid the Kshs 35,437 after filling this case therefore the Respondent owes him a balance of Kshs. 324, 563.
8. The claimant closed his case and opted not to file any submissions.
9. I have examined the averments of the parties herein. This matter proceeded exparte after the respondent failed to attend court for hearing despite service.
10. The claimant exhibit the contracts he signed with the respondent on 17/2/2017 showing he was to reach a total of 135 hours at the rate of 2,000/= per hour in the year 2016/2017. This would total kshs.270,000/= for the said period.
11. The claimant also exhibited another unsigned contract dated 21/11/2016 and 45 hours to reach comparative politics.
12. Due to lack of signature by COD on behalf of the respondent, I would disregard this contract.

13. The respondents have indicated they paid the claimant kshs.35,437/= thus what is unpaid is kshs.234,563/= I therefore enter Judgment for the claimant for kshs.234,563/= plus costs and interest at court rates with effect from the date of this Judgment.

**DATED AND DELIVERED VIRTUALLY THIS 26<sup>TH</sup> DAY OF OCTOBER, 2021.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Godia holding brief for Cheloti for the claimant – present

No appearance for respondent

Court Assistant - Fred