



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT UASIN GISHU**

**COURT NAME: ELDORET LAW COURT**

**CASE NUMBER: ELRCC/172/2018**

**CITATION: BETHUELS KIM KORIR SAINA VS BLISS GVS HEALTHCARE LIMITED**

**JUDGMENT**

**ON 2021-10-08 BEFORE HON. JUSTICE J. N. ABUODHA**

1. This cause was consolidated with cause number 173 and 184 both of 2018.
2. Rhoda Jepchirchir was employed by the respondent on 26th February, 2016 as a pharm tech. Her monthly salary at the time of termination was Kshs. 28,000/=. Nelson Kiplimo Rop was employed on 26th February, 2016 as a pharm -tech as well at same monthly salary of Kshs. 28,000/=. Bethel Korir Saina was employed on 11th January, 2016 as a Data Staff on a monthly salary of Kaha. 12,658/=.
3. The Claimant's alleged that they served the respondent with dedication and without any warning on record until their service was terminated by the respondent.
4. According to them no reason was given for terminating their service and that they were never taken through any disciplinary hearing before termination of their contract.
5. Rhoda further pleaded that prior to termination of her service, the respondent had registered her pharmaceutical practice with its Eldoret clinic for the year 2018 thereby restricting her from accepting employment opportunities elsewhere and she had been rendered unemployable until respondent releases her practicing certificate for the year 2018.
6. According to the Claimants they were grossly underpaid during the period they worked for the respondent and were never housed or provided with a housing allowance and further they were never paid for overtime hours worked.
7. The respondent on its part pleaded that the Claimant's contract with the respondent ended and were not renewed. According to the respondent, the contracts having ended and were never renewed, there was no need for disciplinary hearing.
8. Concerning underpayment, the respondent averred that the Claimants were paid such remuneration that was agreed between themselves and the respondents and further that the salary was inclusive of house allowance.
9. At the trial the Claimants called two witnesses. The respondent on its part chose not to call any witnesses and closed their case.
10. Mr. Bethel Korir stated that he had no formal employment at the time of trial and sought to adopt his witness statement filed on 16th April, 2016 as his evidence in chief. He also relied on his documents filed with the claim.
11. He further stated that he had a contract and it expired in January, 2017. He worked until November, 2017 and was paid during the period. It was further his evidence that they were called from the headquarters and told to continue working.
12. In cross examination he stated that he worked for eleven months without a contract and was paid monthly during the period.
13. By the time he was terminated he had one more month to serve. He was not given notice of termination nor were they paid in lieu of notice.
14. He admitted that the respondent never used his license to register the Eldoret Branch and that he never worked overtime and whenever they worked overtime it would be factored in the pay slip. He further stated that the pay slip included house allowance.

15. The 2nd Claimant Nelson Kiplimo stated that he worked for Nandi County Government and that he recorded a statement on 23rd April, 2018 which he relied on as his evidence in chief. He also relied on his documents filed with the claim.
16. Mr. Kiplimo further stated that he had a contract with the respondent from February 2016 to February, 2017 and worked for a year after his contract expired. This was in 2018 and was paid during the period. He called the headquarters and was told to continue working.
17. In cross-examination he stated that his contract commenced on 26th February, 2016 and he worked for a year. He was given a notice of non-renewal of contract in 2018. No reason was given for non-renewal.
18. The Court did not receive evidence from Rhoda since her evidence was more or less similar to that of the two witnesses who already testified. The Court thus regarded the evidence by the two witnesses to apply to her claim as well.
19. The Claimant's herein were employed on one year fixed term contract. Clause 1 of the contract provided that the contract was renewable at the employer's discretion.
20. Rhoda Jepchirchir and Nelson Kiplimo were issued with contracts dated 26th February, 2016 which would have expired on or about 26th February, 2017 but it would seem they continued to work on similar terms until 26th February, 2018 when they were both issued with notice of non-renewal of contracts.
21. Bethwel Korir Saina was issued with a contract dated 15th January, 2016 which should have expired on or about 11th January, 2017. But he continued to work until 18th November, 2017 when he was issued with a notice of termination of his service. The respondent invoked the termination clause contained in the contract and offered the Claimant among others one month's salary in lieu of notice.
22. Contrary to allegations by the Claimants that they were unfairly terminated because no reason was given for their termination and further that they were never subjected to any disciplinary hearing before termination, it would seem the Claimant's separation from their employment was in accordance with the contract they signed with the respondent.
23. There is no obligation on the part of an employer to renew a fixed term contract. Further if a contract is stated as fixed for a period of time it comes to an end by effluxion of time and there is no requirement to provide reason for termination or notice unless the contract document expressly provides so.
24. The renewal clause in the contract signed by the Claimants was at the discretion of the respondent which it exercised and allowed the Claimants to continue working for another extra year after the expiry of their contracts.
25. In conclusion the court is not persuaded that there was unlawful and unfair termination of the Claimant's contracts.
26. The claims are therefore found without merits and are hereby dismissed but with no order as to costs.
27. It is so ordered.

**GIVEN UNDER MY HAND AND SEAL OF THIS COURT ON 2021-11-27 10:24:38**

**SIGNED BY: HON. JUSTICE J. N. ABUODHA (ADMINISTER JUSTICE)**

**THE JUDICIARY OF KENYA.**

**ELDORET ELRC**

**EMPLOYMENT AND LABOUR RELATIONS COURT**

**DATE: 2021-11-27 10:24:38**