

He also asks for any other remedies the court may deem just and expedient to grant.

6. The Claimant was given opportunity to file his submissions but by the close of the 14 days thereof i.e. by 1st December, 2021.

DETERMINATION

7. The Claimant's contention is that after working for the Respondent from 2012 to 2016 she was unlawfully terminated from employment without any reason or notice.

He has not given further details as to how that happened. He as to file an affidavit in support of his memorandum of claim and to file written submissions but he did not do so.

8. The evidence on record therefore is only that his employment was terminated on 3rd March, 2016. He was not issued an appointment letter or even a termination letter. There are absolutely no records produced for the perusal of this honourable court. The only document that has relevance to this matter is the Claimant's bank statement with equity bank which shows consistent credits of cheques from Cedar Springs Limited as from November, 2016.

9. The Court has only the evidence of the Claimant that he was unlawfully terminated from employment. The Respondent chose not to put in a response and so in essence did not controvert the evidence of the Claimant.

It therefore means that the Respondent did not establish a valid reason to terminate the Claimant's employment.

10. Section 45 (1) of the Employment Act 2007 provide that no employer shall terminate the employment of an employee unfairly. Section 45 (2) further goes to explain that a termination of an employee is unfair if the employee fails to prove the reason for the termination is valid.

11. The Claimant has in his memorandum of claim alleged he was unfairly terminated. The Respondent has not controverted that allegation since they did not put in a defence.

The court has no choice but to accept the Claimant's evidence and enter judgment in favour of the Claimant.

Hence the court declares the termination of the Claimant unfair and against fair labour practices.

RELIEFS

Having entered judgment in favour of the Claimant the court awards him the following reliefs:-

1. One month salary in lieu of notice..... Kshs.10,954/=
2. Unpaid salary from March, 2016 to August, 2016 no particulars as to why this is claimed and so is declined.
3. Underpayment of basic pay from 2nd February to 3rd March, is valid and is awarded.....Kshs.69,825.60/=
4. House allowance is awarded as the Respondent did not show records that he provided for house allowance.....Kshs.78,873.80/=
5. Compensation for unlawful dismissal awarded at 2 months x 10,954.....Kshs.21,908/=
6. Annual leave pay is declined for lack of particulars.
7. General damages is well covered in 5 above.
8. No point to order issuance of letter of appointment.
9. Costs awarded to the Claimant.
10. Interest to accrue till full settlement.
11. Finally certificate of service to be given to the Claimant immediately.

CONCLUSION

The award to the Claimant hereto is Kshs.181,561.40/= and interest till full payment and costs.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 16TH DAY OF DECEMBER, 2021

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 15th March 2020 and subsequent directions of 21st 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 has 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 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.

A signed copy will be availed to each party upon payment of court fees.

ANNA NGIBUINI MWAURE

JUDGE