

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 436 OF 2019

JOYCE WAMBUGU.....CLAIMANT

VERSUS

KIMA HEALTH SOLUTIONS LIMITED

(ABERCROMBIE & KENT

GLOBAL HEALTH (K) LIMITED.....RESPONDENT

JUDGMENT

1. The Claimant brought this suit on 2.7.2019 claiming withheld salary plus leave totalling to Kshs. 648,000. The respondent entered appearance but did not file any defence to oppose the claim. On 18.11.2019, the court gave directions that the matter would proceed as undefended through Formal Proof. On the same day the court gave further direction that oral testimony be dispensed with and instead the suit to be disposed by written submission on the strength of the record.

CLAIMANT'S CASE

2. The Claimant averred that she was employed by the respondent as Care Consultant Director vide the letter of Appointment dated 23.8.2018; that she worked diligently until 10.12.2018 when she was served with a letter dated 6.12.2018 giving her on month termination notice; that the letter cited reduced business and revenue as the reason for the termination, that as a result of the said reason, the respondent could no longer afford her salary; and finally the letter offered to settle her dues on 10.1.2019.

3. The Claimant further contended that though she accepted the termination notice and served upto the effective date, the respondent did not pay the dues as promised. The unpaid dues according to the claimant include salary for November and December 2018 at the rate of Kshs. 270,000 per month, salary for 9 days worked in January, 2019 being Kshs. 54,000 and 9 leave days equalling to Kshs. 54000.

4. The Claimant produced a payroll summary prepared by the respondent in January, 2019 indicating that the respondent owed the claimant the above stated dues totalling to Kshs. 648000. The claimant served the letter dated 20.3.2019 to the respondent demanding the said Kshs. 648000 and a reminder dated 14.5.2019 but the same were ignored. As a result the claimant brought this suit claiming the said Kshs. 648,000 but again the respondent failed to file defence.

Issues for determination

5. There is no dispute that the claimant was employed by the respondent from 23.8.2018 to 9.1.2019. The only issue for determination herein is whether the claimant is entitled to the claim for unpaid salary plus outstanding leave.

6. After careful consideration of the foregoing uncontroverted facts, I will not belabour the point. The January 2019 payroll is a good evidence to support the claim by the claimant that as at the time of her exit, she was entitled to Kshs. 648000 from the respondent made up of unpaid salary and earned leave days. I therefore, allow the claimant's claim as prayed and proceed to enter judgment for her as against the respondent for the sum of Kshs. 648,000 plus costs and interest at court rate from the date of filing the suit.

Dated, signed and delivered in open court at Nairobi this 21st February, 2020.

ONESMUS N. MAKAU

JUDGE