



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 980 OF 2015**

**(Before Hon. Lady Justice Hellen S. Wasilwa on 30<sup>th</sup> April, 2019)**

**ONESMUS MUTINDA KIMAU.....CLAIMANT**

**VERSUS**

**NANKEN BUILDERS.....RESPONDENT**

**JUDGEMENT**

1. The Claimant herein filed a Memorandum of Claim on 9<sup>th</sup> June 2015 alleging his unfair termination by the Respondent. He therefore seeks the following reliefs:-

***a. Damages for unfair termination Kshs. 180,000.00***

***b. Notice Kshs. 15,000.00***

***c. Service Pay Kshs. 18,750.00***

***d. House Allowance Kshs. 67,500.00***

***e. Costs of this suit together with interest thereon at such rate and for such period as this Honourable Court may deem for to order.***

***f. Any other just and equitable relief as this Honourable Court may deem appropriate.***

2. Despite service the Respondent neither entered appearance nor filed its response to the claim. Consequently, the Court directed that the matter does proceed for formal proof.

**Claimant's case**

3. During the hearing, the Claimant adopted his Witness Statement filed on 9<sup>th</sup> June 2015 as his evidence in chief. He stated that he was employed by the Defendant's company on 2<sup>nd</sup> July 2012 to 20<sup>th</sup> March 2015 as a casual labourer undertaking various duties such as a mechanic, storekeeper, welding, tyre repair and plant operator. He stated that he earned a salary of Kshs. 15,000 per month.

4. He testified that on 20<sup>th</sup> March 2015 he was assigned to weld a toolbox and a diesel tank but since there was no electricity he informed the director that he would undertake the task once electricity resumed. He states that the director was furious at him and therefore terminated him without any notice and justifiable reason. He prayed that the Court does award him the reliefs sought in his Claim.

5. I have examined the evidence of the Claimant. Despite the Claimant pleading that he had been employed by the Respondent, he submitted no iota of evidence that shows this relationship. He called no witness to back up his evidence.

6. In my view, his claim remains a mere statement without proof of its authenticity. I find the claim not proved and I dismiss it accordingly with no order as to costs.

**Dated and delivered in open Court this 30<sup>th</sup> day of April, 2019.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Kasanga holding brief Njogu for Claimant

Respondent – Absent