



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 171 OF 2018

AFRICERT LIMITED.....CLAIMANT

v

KIPKORIR ALBERT LANGAT.....RESPONDENT

JUDGMENT

1. Africert Ltd (Claimant) and Kipkorir Albert Langat (Respondent) entered into a contract of employment on 10 August 2016. The Respondent was to serve as a Lead Auditor.
2. The contract was to last for 2 years subject to renewal and/or termination by the giving of 3 months' notice or pay in lieu of notice.
3. On 1 October 2017, the Respondent gave the Claimant notice of resignation, effective 11 October 2017.
4. The Claimant was not amused and it sent a demand letter to the Respondent on 23 November 2017 alleging breach of contract, and seeking return of a work laptop and Kshs 360,000/- being the equivalent of 3 months' salary in lieu of notice.
5. The demand was followed with the instant Cause.
6. On 31 July 2018, the Court granted leave to serve the Respondent through substituted service (through the last known registered address).
7. The Claimant caused to be filed an affidavit of service on 9 October 2018, attesting to service upon the Respondent on 30 August 2018.
8. Despite the service, the Respondent did not enter Appearance or file a *Response* and therefore the Cause proceeded to hearing on 4 March 2019 as an undefended Cause.
9. The Claimant's Finance Manager testified.

Breach of contract

10. The contract of employment provided for a 3 month notice of termination. The Respondent only gave an 11 day notice (Respondent's monthly salary was Kshs 120,000/-).
11. The Court finds that the Respondent was in breach of contract.

Lap top and audit reports

12. The Claimant acknowledged in its submissions that the lap top was recovered after a report was made to the Police and therefore nothing turns on this head of claim.
13. On the audit reports, the Claimant did not give any particulars either in evidence or submissions, and the Court will decline to find for the Claimant.

Conclusion and Orders

14. The Court finds and holds that the Respondent was in breach of contract and orders him to pay the Claimant

(a) Pay in lieu of notice **Kshs 360,000/-**

15. Claimant to have costs on half scale.

Delivered, dated and signed in Nairobi on this 31st day of May 2019.

Radido Stephen

Judge

Appearances

For Claimant Ms. Kwambukha instructed by Makori & Karimi Advocates

Respondent did not participate

Court Assistant Lindsey