



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1031 OF 2015

GORETTI NYOKABI MBURU.....CLAIMANT

VERSUS

BOOTH EXTRUSIONS LIMITED.....RESPONDENT

JUDGMENT

1. This Cause was heard on 29 May 2019. Goretti Nyokabi Mburu (Claimant) and Okoth MacOduol (Respondent's Factory & Administration Manager) both testified.
2. It is not in dispute that the Claimant's employment was terminated on account of operational requirements (decline in business) after a notice dated 1 December 2014.
3. In terms of section 40(1)(b) of the Employment Act, 2007, the Respondent should have sent a notice of intended redundancy to the Local Labour Officer within the area it (Respondent) operated.
4. If any such notice was sent to the Local Labour Officer, the Respondent did not prove it.
5. Similarly, there was no evidence as to the selection criteria used to select the Claimant for termination of employment on account of redundancy.
6. The Respondent, clearly did not comply with the letter and spirit of the law in terminating the Claimant's employment.
7. However, the Claimant did not seek any remedy from the failure by the Respondent to comply with the law but only sought *severance pay*.
8. Pursuant to section 40(1)(g) of the Employment Act, 2007, the Claimant was entitled to *severance pay* equivalent to 15 days' pay for each completed year of service.
9. The Claimant was employed by the Respondent on 2 December 1998 and had her employment terminated effective 31 December 2014, thus serving the Respondent for 16 years.
10. The Claimant computed the *severance pay* as Kshs 351,195/-, a computation which the Respondent did not interrogate or rebut.
11. The Court will therefore enter judgment for the Claimant as sought.

Conclusion and Orders

12. The Court finds and declares that the Claimant was entitled to and is awarded

(a) Severance pay **Kshs 351,195/-**

13. Claimant to have costs.

Delivered, dated and signed in Nairobi on this 21st day of June 2019.

Radido Stephen

Judge

Appearances

For Claimant Ms. Murugi instructed by Achillah T.O & Co. Advocates

For Respondent Mr. Gitonga instructed by Michuki & Michuki Advocates

Court Assistant Lindsey