



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 829 OF 2015

(Before Hon. Lady Justice Hellen S. Wasilwa on 4th July, 2019)

PIUS NGUI NGULUI CLAIMANT

VERSUS

PEMWE SECURITY SERVICESRESPONDENT

JUDGEMENT

1. The Claimant herein filed his Memorandum of Claim on 18/5/2015 alleging unfair and unlawful termination.
2. The Claimant sought also payment of his terminal dues amounting to Kshs.319,460/= plus costs and interest.
3. The Respondent on their part denied terminating the Claimant. In their defence, they indicated that the Claimant resigned on his own volition by giving them a 3 months' notice on 12.7.2014 and he ceased being an employee on 31/10/2014 upon expiry of the notice period given.
4. I have considered the evidence of the Parties and also the documents submitted before me. I notice that indeed the Claimant tendered his resignation vide a letter dated 12.7.2014 indicating that he would cease working for Respondent on 31.10.2014. The Claimant has not denied writing this letter.
5. Due to this acceptance that he wrote a letter giving notice to cease working for the Respondents, the Claimant's assertion that he was terminated is not true.
6. It is my finding that the Claimant resigned voluntary and his claim for unfair and unjustified termination cannot stand.
7. Given that acceptance, I find the Claim for damages for unfair termination cannot stand.
8. The Respondents in their evidence had admitted their willingness to pay the Claimant the unpaid salary for October 2014 – 5,000/=, 2 years leave and 6 months NSSF dues.
9. Based on this admission, I enter judgement for Claimant only for the admitted amount:-

1. 2 years leave = 14,000/=

2. Unpaid salary for October 2014 = 5,000/=

3. Unpaid NSSF dues for 60 months = 24,000/=

TOTAL = 43,000/=

4. The Respondent will also pay costs of this suit plus interest at Court rates with effect from the date of this judgement.

Dated and delivered in open Court this 4th day of July, 2019.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Momanyi holding brief Nyaberi for Claimant – Present

Mugalo for Respondent – Present