



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

ELRC NO. 1315 OF 2015

(Before Hon. Justice Hellen S. Wasilwa on 1st July, 2019)

HERMAN ILANGARWA SHIDAKWA.....CLAIMANT

VERSUS

ARMATI SECURITY SOLUTIONS LIMITED.....RESPONDENT

JUDGEMENT

1. The Claimant herein filed his Memorandum of Claim on 21/10/2015 and later an Amended Claim on 17.2.2016 through Messrs Waweru Gatonye and Company Advocates seeking orders that termination of his employment by the Respondent was unfair and oppressive and seeking payments of his terminal dues and compensation for unfair termination.
2. The Memorandum and the Amended Claim was served upon the Respondents but they failed to enter appearance or file a defence as expected. This matter therefore proceeded as an undefended Claim.
3. The Claimant's case is that he was employed by the Respondent as a Security Guard on 15/6/2014 on a salary of 6,500/= per month and worked until 29th April 2015 when the Respondents terminated him without any reason. He contends that he was not paid his March 2015 salary in full and 1,500/= in arrears.
4. He also avers that he was paid contrary to Kenya Gazette Notice of 1/5/2013 which provided that security officers within Nairobi receive a salary of Kshs.10,911.70 per month.
5. He avers that he was never paid house allowance during the said period contrary to the law and he therefore seeks payment of the said allowance at 5,000/= per month from 15th June 2014 to 29th April 2015.
6. He contends that he was not given any right to be heard before his termination. He made a demand for payment of his dues and compensation through his Counsel but the Respondent failed to pay still hence this case.
7. I have considered the evidence and submissions of the Claimant. I note that the Respondent was served with summons and Memorandum of Claim in this case but failed to enter appearance or file a defence hence the Claim proceeded undefended.
8. The Claimant proved he was employed by the Respondent and his bank statement showed moneys received from the Respondent as salary which fact is not contested by the Respondent.
9. The Claimant was never issued with an appointment letter contrary to the law but he proved he had an employment relationship with the Respondent.
10. The Claimant's case therefore remain uncontroverted and I find that the Claimant was terminated unfairly and unjustly. I also find he was underpaid as pleaded. I award him as follows:-

1. 1 month salary in lieu of notice = 10,911.70/=

2. Underpayment of salary = 10,911.70 – 6500=4411.7 x 10 months = 44,117/=.

3. Unpaid house allowance for 10 months = 15% of 10,911.70 x 10 months = 1,636.8 x 10 = 16,368/=.

4. *Unpaid salary for March 2015 = 1500/=.*

5. *8 months' salary as compensation for unlawful termination = 8 x 10,911.70 = 87,294/=.*

Total Awarded = 160,190.3/=

6. *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 1st day of July, 2019.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Gondo holding brief Githubi for Claimant – Present