



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR

RELATIONS COURT AT MALINDI

CAUSE NUMBER 69 OF 2018

BETWEEN

DANIEL CHARO KARANI.....CLAIMANT

VERSUS

DANIELA MALANCHINI.....RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

P.G. Kaingu & Co. Advocates for the Claimant

Respondent in Person

RULING

1. The Claimant filed his statement of Claim on 20th September 2018. He states, he was employed by the Respondent as a Room Steward, in 1998. He retired on 7th June 2016. He states, he was not paid terminal benefits which include notice pay, annual leave pay, public holiday pay, gratuity, unpaid salary and overtime pay.
2. The Respondent filed Notice of Preliminary Objection on 1st November 2018, which states, the Claim is time-barred under Section 90 of the Employment Act.
3. The Objection was scheduled to be heard on 26th June 2019. Parties informed the Court on this date that they had agreed to have the Objection considered and determined on the strength of Written Submissions.
4. They were allowed 14 days each, to file and exchange Submissions.
5. By the time of preparing this Ruling, 60 days after the orders of 26th June 2019 issued, no Submissions have been filed.
6. The Court notes that it is the common position of the Parties, that the Claimant retired voluntarily, on 7th March 2016.
7. He lodged his Claim on 20th September 2018, approximately 2½ years after retirement.
8. The Claim was filed within the time limit prescribed under Section 90 of the Employment Act 2007.

IT IS ORDERED:-

a) Preliminary Objection is declined.

b) No Order on the costs.

c) Parties to comply with Rule 15 of the E&LRC (Procedure) Rules 2016, and endeavor to schedule the Claim for hearing.

Dated and delivered at Mombasa this 31st day of October 2019.

James Rika

Judge