

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CASE NO. 198 OF 2017

(Before Hon. Justice Mathews N. Nduma)

STEPHEN MAENYA OGUTU.....CLAIMANT

VERSUS

THE GREAT LAKES HOTEL.....RESPONDENT

J U D G M E N T

1. The claimant prays for payment of terminal benefits in the sum of Kshs. 155,800 comprising of service pay, commuter allowance, leave travelling allowance, unpaid leave days, housing allowance and wage increment.
2. The claimant tendered his resignation on 26th October 2015 with immediate effect.
3. The claim for payment of terminal benefits in the sum of Kshs. 155,800 is not opposed by the respondent except that the respondent submits in their written submissions filed on 21st May 2019 that the claimant ought to pay two (2) months salary in lieu of notice not served in the sum of Kshs. 20,000 in terms of clause 9(b) of the Memorandum of Agreement between the Kenya Union of Domestic, Hotels, Education Institutions, Hospitals and Allied Workers (KUDHEIHA Workers) and the respondent for the period 1st April 2013 to 1st April 2015 CBA.
4. The CBA was indeed produced by the claimant as the basis for the terminal benefits sought in this matter.
5. The court is satisfied that the claimant resigned from employment without giving notice to the respondent. The claimant had served the respondent for a period of two years and in terms of clause 6(b) of the CBA, he ought to have served two(2) months' notice upon resignation and in default pay the equivalent of two months salary in lieu of notice.
6. Accordingly, judgment is entered in favour of the claimant against the respondent in the sum of Kshs. 155,800 less Kshs 40,000 in lieu of two (2) months notice in the sum of Kshs. 40,000 giving a total award of Kshs. 115,800.
7. The sum is payable with interest at court rates from date of filing suit till payment in full.
8. The respondent to pay costs of the suit.

Judgment Dated, Signed and delivered this 24th day of October, 2019

Mathews N. Nduma

Judge

Appearances

Mr. Waka for Claimant.

Mr. Abira for Respondent

Chrispo – Court Clerk