



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF**  
**KENYA AT NAIROBI**  
**CAUSE NUMBER 557 OF 2012**

**DOMINIC OOKO ODERO.....CLAIMANT**

**VERSUS**

**FAROOK WALI MOHAMMED.....RESPONDENT**

**JUDGEMENT**

1. The claimant averred that he was employed by the respondent as a shamba boy in August 2007 at a monthly salary of Kshs 4,000/= which was later increased to Kshs 4,500.
2. He was dismissed from service on 4<sup>th</sup> June, 2009 without any warning on notice. He was further not paid his terminal dues. The claimant further averred that he was paid less than the prescribed minimum wage.
3. The respondent in his response to the claim admitted the claimant was his employee but averred that he failed in his duties and had been waned severally about it. According to the respondent on 4<sup>th</sup> June, 2009 the claimant deserted his place of work which led to bread in and the house was vandalized.
4. The claimant was explained to reasons of his termination and given an opportunity to defend himself. According to the respondent the dispute was reported to Labour Office but could not be resolved as this claimant made unreasonable demands prompting him to deposit Kshs 15,000 at the Labour Office.
5. This matter proceeded ex parte hence the court did not have the benefit of listening to the respondent's version of the dispute. It is not in dispute that the claimant was the respondent's employee.
6. The respondent further did not deny the period for which the claimant worked for him. In absence of any supporting document attached to the memorandum of response it becomes difficult to resist the claimants averments since the burden of proof of reasons for termination of services rests with the employer.
7. The court will therefore enter judgement in favour of the claimant as follows:

a. One month's pay in lieu of notice	7,049.50
b. Pro rata leave	9,046.90
c. Gratuity @15 days per complete year of service	3,524.75
d. House allowance	16,354.25
e. Under payments	<u>25,339.35</u>

**61,324.75**

8. It is so ordered.

Dated at Nairobi this 9<sup>th</sup> day of February, 2018

**Abuodha J. N.**

**Judge**

Delivered this 9<sup>th</sup> day of February, 2018

**Abuodha J. N.**

**Judge**

**In the presence of:-**

.....for the Claimant

.....for the Respondent