



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO. 2225 OF 2017**

**(Originally Nairobi High Court Civil Case No. 629 of 2008)**

**ROSE N. WAIGWA.....CLAIMANT**

**v**

**UNIVERSITY OF NAIROBI.....1<sup>st</sup> RESPONDENT**

**UNIVERSITY OF NAIROBI PENSION MANAGEMENT.....2<sup>nd</sup> RESPONDENT**

**RULING**

1. On 6 November 2017, the High Court ordered that the Cause herein be transferred to this Court for hearing and determination.
2. The Cause was consequently placed before me on 5 March 2018. In the presence of the parties, I gave directions as to the filing of witness statements, and scheduled hearing for 14 May 2018.
3. When the Cause was called out for hearing, Ms. Oginda for the Claimant sought for an adjournment on the ground that she had not been able to reach the Claimant.
4. The Respondents indicated that they were ready for the hearing, and therefore opposed the application for adjournment.
5. The Court has looked at the record. The Cause was certified as ready for hearing by the High Court on 23 July 2015.
6. When the Cause came up for hearing on 6 November 2017, the Claimant's advocate indicated that she was not ready to proceed with the hearing because she had not served the 1<sup>st</sup> Respondent with a hearing notice.
7. Counsel also raised the question of jurisdiction, the dispute essentially revolving around an employment/contractual relationship.
8. The High Court therefore ordered that the Cause be transferred to this Court.
9. The Claimant's advocate had more than 2 months to contact the Claimant about the hearing date.
10. Apart from stating that she had not been able to reach the Claimant, the advocate did not disclose the attempts made to reach the Claimant and how.
11. In the view of the Court, the reason advanced by the Claimant to secure an adjournment was not sufficient to warrant an adjournment considering that this dispute has been pending in the Courts for 10 years and the Claimant had already secured an adjournment previously.
12. The Court also notes that there have been previous time bound directions to facilitate the expeditious determination of the Cause which were issued after the 1<sup>st</sup> Respondent had moved the Court to dismiss the Cause for want of prosecution.
13. The Court dismisses the Cause herein with no order as to costs.

**Delivered, dated and signed in Nairobi on this 16<sup>th</sup> day of May 2018.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant	Ms. Oginda instructed by Njeri Kariuki, Advocate
For 1 <sup>st</sup> Respondent	Ms. Mochama instructed by KTK Advocates
For 2 <sup>nd</sup> Respondent	Mr. Ngeno instructed by Kaplan & Stratton Advocates
Court Assistant	Lindsey