



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 2500 OF 2016

(Before Hon. Justice Hellen S. Wasilwa on 5th June, 2018)

JUSTINA NZULA MBAU.....CLAIMANT

VERSUS

RACHEAL WANJIKU KIMANI.....RESPONDEDNT

JUDGEMENT

1. The Claimant herein filed her case on 2/12/2016 through the firm of Gathii Irungu & Company Advocates claiming underpayment, unlawful and wrongful dismissal and failure by the Respondent to pay her her terminal dues upon dismissal.
2. The Claimant's case is that she was employed by the Respondent on 15.9.2005 as a house servant and worked until 1/10/2014 when she was terminated by the Respondent.
3. She avers that on 1/10/2014 she asked the Respondent for permission of 3 days to go and visit her father who was ailing and was admitted in hospital in Makeni County.
4. She reported to work late after about 2 hours and this is when she was terminated. She avers that she was never given an opportunity to defend herself before the termination.
5. She also avers that the termination was unfair and the Respondent did not pay her her terminal dues.
6. Her claim is for payment of her terminal dues as enumerated in her claim all totaling 820,621/=.
7. The Respondent were served with the summons and Memorandum of Claimant and they entered appearance through the firm of Ngira & Associates. No defence was filed.
8. The Court ordered this claim to proceed undefended.
9. I have considered the evidence of the Claimant and submissions filed. In determining this matter, I note that this claim though having proceeded undefended, it is the duty of the claimant to prove her case. The need to establish an employment relationship albeit remotely must be seen.
10. The Claimant indicated that she worked for the Respondent. She never called any witness to prove the same. She never even remotely gave any evidence to prove interaction with the Respondent. The claimant

only stated her case but never established that indeed she worked for the Respondent as stated.

11. In this Court's view, the Claimant failed miserably to establish her case as required. I dismiss this case accordingly with no order as to costs.

Dated and delivered in open Court this **5th day of June, 2018.**

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Makori for Claimant – Present

No appearance for Respondent