



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 304 OF 2015**

**(Before Hon. Justice Hellen S. Wasilwa on 23<sup>rd</sup> July, 2018)**

**ALPHONCE SYOVO IVUTO.....CLAIMANT**

**VERSUS**

**RAV BUILDING CONTRACTORS LIMITED.....RESPONDENT**

**JUDGEMENT**

1. The Claimant herein filed his Memorandum of Claim on 4/3/2015 through Namada and Company Advocates alleging unfair and unlawful dismissal from employment and non-payment of his terminal and compensatory damages.
2. He averred that he was employed by the Respondent as a Carpenter earning 500/= per day and he served the Respondent continuously and with diligence from April 2008.
3. He stated that on 6/7/2014, he reported on duty as usual. At the end of the day, the Respondent Company's Director one Ravji summoned him and informed him that there was a shortage of work hence no work was available for him to do and as a result, he was ordered not to report the following day.
4. The Claimant made a follow up with the Respondent as to why such a drastic decision had been made against him. However, his efforts bore no fruits.
5. The Claimant avers that the Respondent's action amounts to summary dismissal as no due process was followed. No notice was given to him. He therefore seeks for payment of 1 months' notice – 15,000/=, payment in lieu of unpaid leave for the entire period of 6 years – 90,000/= and service gratuity for 6 years being 45,000/=. He also seeks damages equivalent to 12 months salary being 180,000/=

**TOTAL being = 33,000/=**

6. The Respondent were served with summons to enter appearance and Memorandum of Claim in this case on 11.6.2015. They never filed any Response. They were again served with a Mention Notice for 28/1/2016. They never attended Court. The Court ordered the matter to proceed as an undefended claim.
7. I have considered the Claimant's evidence and submissions. The Claimant however failed to establish he had an employment contract with the Respondent. He indicated he received money from the Respondent but never gave any evidence to prove the same. He had no mildest proof that he had any relationship with the Respondent of any nature.
8. I find that the Claimant has failed to establish his case. No orders as to costs.

**Dated and delivered in open Court this 23<sup>rd</sup> day of July, 2018.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Miss Machero holding brief for Namada for Claimant

Respondent – Absent