



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

CAUSE NO 564 OF 2015

DIANA K. SHITAKHA.....CLAIMANT

VS

KASKAZI BEACH HOTEL

LTI KISII SAFARI INNS LTD.....RESPONDENTS

JUDGMENT

Introduction

1. This claim is brought by Diana K. Shitakha against her former employers, Kaskazi Beach Hotel and LTI Kisii Safari Inns Limited. The claim is documented by a Statement of Claim dated 27th July 2015 and filed in Court on 6th August 2015.

2. The Respondents entered appearance on 19th September 2016, but did not file any reply. The matter therefore proceeded by way of formal proof on 12th April 2018.

The Claimant’s Case

3. The Claimant states that she was employed by the Respondents on 10th September 2012, in the position of General Manager at Kaskazi Beach Hotel. She earned a monthly salary of Kshs. 350,000.

4. The Claimant worked for the Respondent until April 2013, when she gave a three (3) months’ resignation notice to the Respondent. She states that she was compelled to resign from her employment by the Respondents’ failure to pay her salary from the month of May 2013.

5. The Respondents accepted the Claimant’s resignation by letter dated 2nd September 2013. By this time, the Claimant had served one (1) month of her notice period. The Respondents waived the remaining two (2) months’ notice period and asked the Claimant to hand over immediately. The Claimant now claims the following:

- a) Salary from May 2013 to August 2013.....Kshs. 1,050,000
 - b) 3 months’ salary in lieu of notice.....1,050,000
 - c) 31 days’ leave pay.....350,000
 - d) Pending off days (3 days’ public holidays).....33,000
- Less 3 instalments of Kshs. 100,000 each.....(300,000)
- Total amount due.....2,183,873**

6. The Claimant further claims interest on the outstanding amount.

Findings and Determination

7. In their letter dated 2nd September 2013, the Respondents admit owing the Claimant the following:

- a) Four (4) months' salary-May, June, July and August 2013;
- b) Thirty four (34) pending leave and off days;
- c) Two (2) months' notice period.

8. The Claimant's entire claim is admitted by the Respondents and there is therefore nothing more to say. The only thing I will do is to discount the sum of Kshs. 800,000 which the Claimant admits having received from the Respondents.

9. Consequently, I enter judgment in favour of the Claimant and against the Respondents jointly and severally in the following terms:

a) Salary for May, June, July and August 2013.....	Kshs. 1,400,000
b) 34 leave and off days (350,000/30x34).....	396,667
c) 2 months' notice pay.....	<u>700,000</u>
 Total.....	 2,496,667
 Less amount paid.....	 <u>(800,000)</u>
 Amount due.....	 1,696,667

10. This amount will attract interest at court rates from the date of filing suit until payment in full.

11. The Respondents will pay the costs of the case.

12. Orders accordingly.

DATED SIGNED AND DELIVERED AT MOMBASA THIS 12TH DAY OF JULY 2018

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JUDGE

Appearance:

Mr Mkan for the Claimant

No appearance for the Respondent