

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1463 OF 2010

PATRICIA NANGAMI MASINDE.....CLAIMANT

VERSUS

TIMOTHY MURIUKI – CHAIRMAN WACHIRA NJUGUNA –

VICE CHAIRMAN ROBERT FOULSER – TREASURER LUCAS GIMONA –

AG. CEO (SUED AS THE OFFICIALS)

NAIROBI CENTRAL BUSINESS DISTRICT ASSOCIATION....RESPONDENT

JUDGMENT

Introduction

1. The claimant was employed by the respondent on 4.5.2002 as an Administrative Assistant earning Kshs.20,000 per month. He worked until 1.12.2009 when he was terminated for alleged gross misconduct.
2. After the termination, his terminal benefits were tabulated and agreed at Kshs.543,835 on 17.3.2010. It was further agreed that the respondent would pay Kshs.100,000 to the claimant before 15.4.2010 and settle the balance by installments of Kshs.50,000 per month.
3. On 27.4.2010, the respondent paid Kshs.100,000 only and never paid the balance despite demand through counsel. As a result the claimant brought this suit on 3.12.2010 claiming the outstanding balance of his said terminal dues amounting to Kshs.443,835 plus interest from 15.5.2010 until payment in full. He also prayed for costs of the suit.
4. Despite service of summons and the claim pleadings, the respondent never filed any defence. The suit was fixed for hearing on 5.3.2018 but the claimant sought and obtained directions that oral evidence be dispensed with and instead the matter be decided on the basis of the record.
5. After careful consideration of the uncontested pleadings and the correspondences between the parties herein, it is clear that the sum claimed herein was not disputed. The court has specifically considered the letter dated 1.3.2010 by the respondent to the claimant referring to several meeting wherein, the claimant's terminal benefits were discussed and agreed at Kshs.543,835. The letter further offered to pay a down payment of Kshs.100,000 before 15.4.2010 and clear the balance by installments of Kshs.50,000 per month. The respondent partly honored the agreement by paying the down payment of Kshs.100,000 on 27.4.2010 but thereafter breached the the same by defaulting on the balance. The balance is still outstanding to date and no justifiable reason has been cited for the continued breach. Consequently, I find and hold that the claimant has proved on a balance of probability that he is entitled to the outstanding balance of his terminal dues of Kshs.443,836 as prayed in his suit.

Conclusion and Disposition

6. For the reasons stated herein above, I enter judgment for the claimant in the sum of Kshs.443,835 plus costs and interest at Court rate from the date of filing suit till payment in full.

Dated, Signed and Delivered in Open Court at Nairobi this 17th day of August, 2018

ONESMUS N. MAKAU

JUDGE