



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1911 OF 2014

(Before Hon. Justice Hellen S. Wasilwa on 3rd October, 2018)

PETER MUTUA MUINDICLAIMANT

VERSUS

ANSALDI ROBERTO.....RESPONDENT

JUDGEMENT

1. The Claimant Peter Mutua Muindi filed his Memorandum of Claim on 10/11/2014 and later an Amended Claim on 21/11/2014 through the firm of Karanja Kiarie and Company Advocates alleging unfair termination of employment and failure to pay his terminal dues payable upon termination.
2. The Claimant's case is that he was employed by the Respondent as a Stableman on 15th January 2013 earning a monthly salary of 12,000/=. He avers that on 12.2.2014 he was at the Respondent's premises in Karen looking after the Respondent's horses. That one of the horses bolted tightening the rope on his ring finger of the left hand. He struggled to control the horse, resulting in a fracture of the said finger.
3. He requested for money for treatment and compensation from the Respondent for injuries suffered. However, the Respondent verbally dismissed him from work without paying him his terminal dues.
4. His claim against the Respondent is for severance pay – 6,000/=. pay in lieu of notice – 12,000/= and compensation equivalent to 12 months salary for unfair termination = 144,000/=.
5. He also seeks for costs and interest. He avers that demand has been made for payment but Respondent has failed to make good the demand.
6. The Claimant called 1 witness who said he knew the Claimant and was a neighbour. He confirmed that Claimant used to work for the Respondent and injured his finger while on duty. He then took Claimant to hospital for treatment. Later he learnt that the Claimant had been sacked.
7. The Respondents were served with the Memorandum of Claim and Summons to enter appearance in this case but they never entered appearance or file defence. The Court ordered that this case proceeds undefended.
8. I have examined evidence of Claimant plus submissions filed. The Claimant's case is that he worked for Respondent and was injured while at work was corroborated by CW2. The Respondent though served, never defended this claim. This leaves the Claimant's case uncontroverted.
9. It is my finding that the Claimant has established his claim and I find for him and award him as follows:-

1. 1 months salary in lieu of notice = 12,000/=

2. 8 months' salary as compensation for unlawful termination = 12,000 x 8 = 96,000/=.

TOTAL = 108,000/=

3. The Respondent will also pay costs of this suit and interest at Court rates with effect from the date of this judgement.

Dated and delivered in open Court this 3rd day of October, 2018.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Ogari holding brief for Karanja for Claimant – Present

Respondent – Absent