



## REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO 1171 OF 2014

LUCY NYOKABI KAMANDE.....CLAIMANT

VERSUS

KABATI FARMERS CO-OPERATIVE SOCIETY..RESPONDENT

### JUDGEMENT

1. By a memorandum of claim filed on 15<sup>th</sup> July, 2014 the claimant pleaded that she was employed by the respondent as a book-keeper in January, 2004 at a salary of Kshs 12,000/= per month. She worked diligently and without any disciplinary issue until 3<sup>rd</sup> April, 2014 when she resigned giving the respondent one months' notice. However upon her resignation, the respondent failed and or neglected to pay her salaries for the months of March and April 2014, leave days as well as statutory dues.
2. The respondent filed a response to the claim in which it averred among others that it does not owe the claimant unpaid salary, leave and statutory dues as claimed. According to the respondent, the claimant deserted duties while on leave which made her liable for summary dismissal.
3. The respondent further averred that the claimant took away respondent's property including flash disk, records relating to respondent's shareholders and procurement processes, receipt books and funds.
4. At the hearing the case proceeded ex-parte since the respondent's counsel did not attend court despite being duly served. The claimant stated that she resigned due to little pay and that there were delays in payment.
5. The respondent, though did not attend court at the hearing, they filed a witness statement and supporting documents on 25<sup>th</sup> February, 2016. Exhibit 2A to 2H were documents in support of the respondent's defence that the claimant went on leave. This was not disputed by the claimant in her oral evidence in court.
6. At page 6 of the respondent's bundle of documents was the claimant's resignation letter. The letter states that the resignation was on account of low salaries and delay in payment. At page 7 the respondent replied to the claimant's advocate's demand letter asking that the claimant to go to the respondent and handover to the new secretary/manager before her demands can be considered.
7. From the foregoing it can reasonably be deduced that the claimant went on leave hence her claim for unpaid leave lacked merit. Second, the respondent had no problem paying the claimant her dues provided she handed over.
8. The court therefore enters judgement against the respondent for:
  - a) Kshs 24,000 being the claimants unpaid salary for March and April, 2014
  - b) Costs of the suit.
9. It is so ordered.

**Dated at Nairobi this 30<sup>th</sup> day of November, 2018**

**Abuodha Jorum Nelson**

**Judge**

**Delivered this 30<sup>th</sup> day of November, 2018**

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.