

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NYERI

CASE NO. 58 OF 2013

BANKING INSURANCE & FINANCE UNION.....CLAIMANT

VERSUS

TAIFA SACCO SOCIETY LIMITED.....RESPONDENT

RULING

1. The Claimant seeks interposition of the Court in the matter of the CBA negotiated between the parties. The only issues the Claimant submits are for determination are the effective date, the house allowance, the medical allowance and the provident fund. The Respondent agrees that there are some pending issues for resolution and asserts that these are capable of resolution if parties sit and negotiate. The Claimant proposes the effective date as 1st January 2018 and states that it took 7 years to get to this point as a result of the anti-union attitude of the Respondent. It proposes 50% of basic as house allowance. The Union agrees that the medical allowance proposal by the Respondent as well as the provident fund proposal of 10% contribution by each (employee and employer) is agreeable. That whittles the matters in dispute to only two – effective date and the matter of the house allowance.

2. The Employment Act under Section 31 makes provision on house allowance. It gives 15% of the basic as the basis for house allowance. The Claimant has not availed any special circumstances that would require the payment of 50% of basic pay as house allowance. This is too high and as the law makes the proposal for a minimum of 15% of basic, the parties can commence from this base and build up as they negotiate over the coming years. The effective date is proposed as 1st January 2018 and this is a fair effective date as this matter has dragged on unnecessarily. In view of the court the ability to negotiate will be less problematic once the CBA commences.

3. The parties should execute the CBA and offer it for registration within the next 15 days. Any party in default or causing any delay in initiating the process will be liable for costs.

It is so ordered.

Dated and delivered at Nyeri this 11th day of December 2018

Nzioki wa Makau

JUDGE