



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE NO. 207 OF 2015

ERICKSON MATUNDA OMOYO

CLAIMANT

v

GAJIPARA BUILDERS LIMITED

RESPONDENT

JUDGMENT

1. The Claimant in the instant Cause contends that the Respondent unfairly terminated his employment in July 2014. He also asserts that he was underpaid.
2. Despite being served with Notice of Summons and the Memorandum of Claim, the Respondent only filed a Memorandum of Appearance but not a Response.
3. During the hearing on 3 November 2016, the Respondent's advocate on record was allowed to cross examine the Claimant. Written submissions were filed and have been considered.
4. The Claimant's testimony that he was dismissed on 7 July 2014 without being given the reasons and payment of terminal benefits remain uncontroverted.
5. The Court therefore finds that there was unfair termination of employment.
6. Also uncontroverted is the evidence that he did not take annual leave or get overtime pay for work beyond the hours or during public holidays.
7. Because the Claimant served for 2 years, the Court will award the equivalent of 3 months gross wages as compensation.

Conclusion and Orders

8. The Court finds and holds that the Claimant has proved his case on a balance of probabilities and, therefore was unfairly dismissed from employment and merits the prayers sought.
9. The Court awards the Claimant

(i) Underpayments	Kshs 47,980/-
(ii) Pay in lieu of Notice	Kshs 12,823/20
(iii) Annual leave	Kshs 14,938/25

(iv) Overtime	Kshs 43,894/80
(v) Gratuity	Kshs 14,796/-
(vi) Compensation	Kshs 38,469/-
TOTAL	Kshs 172,901/25

10. Claimant is denied costs for failing to serve submissions within the directed timeline.

Delivered, dated and signed in Nakuru on this 20th day of January 2017.

Radido Stephen

Judge

Appearances

For Claimant Mr. Chege instructed by Munene Chege & Co. Advocates

For Respondent Ms. Muthoni instructed by Karanja-Mbugua & Co. Advocates

Court Assistants Nixon/Daisy