



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**  
**CAUSE NO. 513 OF 2014**

**KAITANO MUSEBE ANDA**

**CLAIMANT**

v

**POLY PIPES LIMITED**

**RESPONDENT**

**JUDGMENT**

1. The Claimant contended in a Memorandum of Claim filed in Court on 14 October 2014 that the Respondent unlawfully terminated his employment on 1 June 2014. Apart from compensation for unfair termination of employment, the Claimant seeks *pay in lieu of notice, service gratuity, overtime pay and underpayments*.

2. The Court will examine whether the Claimant's employment was terminated unlawfully and appropriate remedies if any, including entitlements accruing from the employment relationship.

***Whether termination unfair***

3. The Claimant contended that he was not given notice of termination of employment or a letter of termination.

4. The Respondent on the other hand contended that the Claimant was on fixed term contracts of 6 months and that it opted not to renew the last contract which expired on 30 June 2014 (contract is dated 1 January 2014).

5. The Claimant disowned signing or receiving the contract.

6. The Respondent produced three 6 months contracts issued to the Claimant. The contracts dated 2 January 2009 and 1 July 2009 have the Claimant's signature but the last contract dated 1 January 2014 is missing page 2 where the Claimant's signature should have been.

7. The missing page was not explained and therefore the Court finds it more probable that the said contract was not signed or accepted by the Claimant.

8. In the circumstances, the Claimant was on a month on month contract because he was paid by the month, and notice of termination in terms of section 35 of the Employment Act, 2007 was required to bring the contract to an end.

9. The contract in effect did not expire by effluxion of time, but was unfairly brought to an end by the Respondent.



**Appearances**

For Claimant        Mr. Bichanga instructed by Chepkwony & Co. Advocates

For Respondent    Mr. Ombui instructed by E.M. Juma & Ombui, Advocates

Court Assistant    Nixon/Daisy