



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU

CAUSE NO. 645 OF 2014

SAMUEL OTIENO OWILLI

CLAIMANT

v

RILEY SERVICES LIMITED

RESPONDENT

JUDGMENT

1. This is an undefended Cause.
2. The Respondent's Human Resources Manager was served with Summons on 30 January 2015, but no Response was filed. A hearing notice was also served and acknowledged on 9 March 2016.
3. The Claimant gave sworn testimony and stated that he was employed by the Respondent on 19 July 2010 as a night watchman. He produced some of his pay slips which indicate that at time of separation, he was earning a basic pay of Kshs 9,012/-.
4. On the conditions and terms of employment, the Claimant stated that he was paid house allowance only once, had outstanding leave by time of separation, was owed uniform refund which had been deducted, worked overtime (72 hours per week instead of 52 hours per week) and was paid below the prescribed minimum wages (applicable Legal Notices pleaded).
5. As to the circumstances of separation, the Claimant produced a notice of termination of employment and the reason given therein was the client he was assigned to on guard duties (Sameer Africa Ltd) had terminated the contract with the Respondent and contracted the guarding services to a different company.
6. The separation was therefore involuntary on the part of the Claimant. This was a case of redundancy and the Respondent ought to have complied with the conditions outlined in section 40 of the Employment Act, 2007.
7. The Claimant's pleadings and evidence remaining unchallenged and/or uncontroverted, the Court finds for him as claimed.
8. Because of the 3 or so years of service, the Court will award the equivalent of 4 months gross wages as compensation.

Conclusion and Orders

9. The Court finds the termination of the Claimant's employment on account of redundancy unfair and awards him and orders the Respondent to pay him

(a) Pay in lieu of notice	Kshs 11,633/55
(b) October 2013 wages	Kshs 11,633/55
(c) Gratuity	Kshs 21,011/40
(d) Leave	Kshs 32,391/25
(e) Underpayments	Kshs 108,894/10
(f) Overtime	Kshs 203,693/80
(g) Compensation	Kshs 37,489/60
(h) Uniform refund	Kshs 3,315/-
(i) RIFA refund	Kshs 3,900/-
TOTAL	Kshs 433,962/25

10. Claimant to have costs.

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

Radido Stephen

Judge

Appearances

For Claimant

Mrs. Ndeda instructed by Ndeda & Associates

Court Assistant

Nixon/Daisy