



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT MOMBASA
CAUSE NUMBER 35 OF 2016
BETWEEN
SYLVESTER CHARO DANIELCLAIMANT
VERSUS
CENTRAL ELECTRICAL INTERNATIONAL LIMITE.....RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Munee Katu & Company Advocates for the Claimant

No appearance for the Respondent

JUDGMENT

1. The Claimant states he was employed by the Respondent, on 15th November 2011 as an Electrician, earning a monthly salary of Kshs. 15,204. His contract was terminated by the Respondent on 29th September 2015 without cause or notice. In his Statement of Claim filed on 27th January 2016, he seeks the following orders against the Respondent:-

- a) 1 month salary in lieu of notice at Kshs. 17,002.75.
- b) Underpayment of consolidated wage from 1st May 2015 to 29th September 2015.
- c) 42 days of accrued annual leave at 48,065.
- d) 12 months' salary in compensation for unfair termination at Kshs 204,033.
- e) Certificate of Service.
- f) Costs.

2. There are Affidavits of Service filed, showing the Respondent was served, but filed nothing in

response. The Respondent did not attend Court at any time. Hearing proceeded *ex parte* on 21st November 2016.

3. The Claimant testified he was employed through an oral contract. He initially earned Kshs. 3,810 per week, and Kshs. 15,240 by the time he left employment.

4. He was not paid in accordance with the Minimum Wages order, and did not utilize his annual leave entitlement. On 29th September 2015, the Respondent asked him to remove his work uniform and leave. He was not issued with a notice of termination, or given any reason justifying the decision. He reported the dispute to the County Labour Office. There was no resolution. He prays the Court to allow the Claim.

The Court Finds:-

5. The Respondent has not filed anything, or attended Court at any time, to challenge the Claim. There is sufficient evidence to conclude the Claimant was employed by the Respondent as an Electrician, earning Kshs. 15,204 per month as of the time of departure from employment. His contract was terminated by the Respondent without cause or notice, on 29th September 2015. He was underpaid for the period 1st May 2015 to 29th September 2015. The relevant Wages Order dated 20th May 2015 has been placed on the record. He did not utilize his annual leave of 42 days, and was not paid anything in lieu of utilization. The Court is satisfied the Claim has merit, and ***Orders:-***

a) The Respondent shall pay to the Claimant 1 month salary in lieu of notice at Kshs. 17,002; underpayment of wages at Kshs. 8,813; accrued leave at Kshs. 48,065; and 12 months' salary in compensation for unfair termination at Kshs. 204,033- total Kshs. 277,913.

b) Certificate of Service to issue.

c) Costs to the Claimant.

Dated and delivered at Mombasa this 24th day of February 2017.

James Rika

Judge