



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

CAUSE NO. 359 OF 2016

DOUGLAS JAMES MAYABI.....CLAIMANT

VERSUS

MFI TECHNOLOGY SOLUTIONS LIMITED.....RESPONDENT

Kinyanjui Kirimi for claimant/applicant

Mang'erere Bosire for respondent

RULING

1. Applicant seeks the court to order the respondent to reinstate the claimant to work and release and pay the sum of Kshs.227,624/- being the claimant's net salary for the months of April 2013 to march 2016.
2. The application is supported on grounds set out on the face of the application and in the supporting affidavit of the claimant Douglas James Mayabi.
3. The nub of the grounds is that the children of the claimant being the sole breadwinner will be chased out of school and that the claimant has not received a salary for over eight months.
4. That the claimant suffered injury from an accident on 7th July 2015, in the course of his work and was admitted in hospital for seven days while on sick leave.
5. Subsequently on 21st September, 2015, the claimant was sent on unpaid sick leave and was to be redeployed once he was certified ready to work by a doctor.
6. That claimant was certified ready to work on 2nd July 2016, but that respondent has refused and/or neglected to reinstate him to work and also refused to pay him any salary.

Response

7. The application is opposed vide a replying affidavit dated 13th April 2016. The respondent admits having employed the claimant and the facts of the accident.
8. The respondent states that the claimant was paid in full for the first seven (7) days, half pay for the next (7) days period and for his remaining leave days as per clause 9.4 of his contract of employment.

9. That the respondent is willing and able to help the applicant get his compensation under the Work Injury Benefits Act upon his following the laid down procedure.

10. That the claimant is a valued employee of the respondent and he is to blame for failing to resume his work since he was not dismissed.

11. That no triable issues are raised in this suit.

Determination

12. The application lacks merit as no *prima facie* case with a probability of success has been disclosed by the applicant.

13. The applicant should resume work and follow the laid down procedure to claim compensation under Work Benefits Act.

14. This application is dismissed with costs.

Dated and delivered at Nairobi this 10th day of February 2017

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE