



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI
CAUSE NUMBER 293 OF 2015

EDWARD ODONGO OWITI.....CLAIMANT

VERSUS

SALAMA HOTEL LIMITED.....RESPONDENT

JUDGEMENT

1. The claimant pleaded that he was employed by the respondent as a cleaner/gardener through an oral agreement at a salary of Kshs 4,500 per month. He worked until May 2013 when according to him the respondent terminated his services without any lawful cause or justification. According to him, he was terminated on account of his old age. He further averred that during the period of his employment he never went on leave and worked long hours without extra pay.

2. The respondent on its part denied that the claimant was his employee and if at all he was a casual worker engaged on day to day basis. At the trial only the claimant gave evidence. The respondent was absent. The claimant’s brief testimony was that he was employed by the respondent in May, 1998 and left employment in May 2013. His monthly salary was Kshs 4,500 for the entire period.

3. The onus of keeping employment records is on the employer. If it be true as the respondent alleges that the claimant was not its employee, nothing prevented them to come to court and put the claimant to task. This did not happen. The claimant’s averments therefore remain uncontroverted.

4. The court therefore enters judgment in favour of the claimant as follows:

Kshs.

a. One month’s salary in lieu of notice	9,866
b. Service pay at the rate of 15 days	
pay for each completed year of service	147,988
c. Six months salary as compensation	
for unfair termination of services	
<u>59,196</u>	

217,050

d. Costs of the suit.

8. It is so ordered.

Dated at Nairobi this 10th day of February 2017

Abuodha J. N.

Judge

Delivered this 10th day of February 2017

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge