



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI
CAUSE 590 OF 2015

KELVIN RANDU KATANA.....1ST CLAIMANT

JUMA ODERA ADEMBA.....2ND CLAIMANT

VERSUS

EASTLAND HOTEL LIMITED.....RESPONDENT

JUDGEMENT

1. This cause proceeded as undefended when the court became of the view that the respondent though served, failed to enter appearance and file a response to the claim.
2. As stated by this court before, the burden of proof of reasons for dismissal or termination lies with the employer. In the absence of the employer as is the case here the court will unless for good cause believe the employee.
3. According to the claimants they were employed by the respondent as food and beverage manager and cleaner respectively. The 1st claimant was employed on 26th February, 2014 while the 2nd was employed on 14th March, 2014. They were both dismissed in June 2014 which dismissal they claim was unfair and unprocedural.
4. By letters dated 1st and 21st May, 2014 the claimants were informed of termination of their services and the reasons for the termination to wit reorganization of food and beverage department for the 1st claimant and decline of business in respect of the 2nd claimant. It is therefore not correct that they were not informed of the reasons for their termination.
5. The claimants' termination however appeared to have been a case of redundancy. The respondent did not appear before the court to justify the redundancy and confirm if the claimants were paid their redundancy dues.
6. The court will presume that the claimants were unprocedurally declared redundant hence unfairly terminated from employment. The court therefore enters judgement against the respondent as follows:
 - a. One month salary in lieu of notice
 - b. Seven months salary for unfair termination of services

c. Costs of the suit

7. Claimants to liaise with the Registrar of the court to compute the actual figures due to each claimant.

8. It is so ordered.

Dated at Nairobi this 17th day of March, 2017

Abuodha J. N.

Judge

Delivered this 17th day of March, 2017

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant

.....for the Respondent.

Abuodha J. N.

Judge