



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

CAUSE NO. 228 OF 2016

GABRIEL NDERITU KIAMBATI CLAIMANT

V

BAYER EAST AFRICA LTD RESPONDENT

JUDGMENT

1. Gabriel Nderiti Kiambati (Claimant) was employed by Bayer East Africa Ltd (Respondent) in 1999 and he served until 28 February 2013, when the Respondent either outsourced HR Strategic Partners to provide human resources or Claimant joined HR Strategic Partners as an employee.
2. Upon the separation, the Claimant demanded for his terminal dues for the period he worked for the Respondent and on 26 November 2014, HR Strategic Partners computed the benefits as Kshs 340,906/- after deduction of liabilities and tax.
3. The Claimant did not agree with the computations and therefore sought a clarification through a letter dated 3 December 2014.
4. HR Strategic Partners responded on 9 December 2014 and clarified that the dues were for the period the Claimant had served the Respondent and also advised that the Respondent had retained it (HR Strategic Partners) to handle the issue of the benefits.
5. The Claimant was not satisfied with the clarification and he sought legal advice as a result of which his legal advisers wrote a demand letter to HR Strategic Partners on 15 December 2014.
6. HR Strategic Partners replied on 17 December 2014 and informed the advocate that they did not wish to handle the issue of benefits any further.
7. The reply prompted the Claimant's legal advisor to demand the benefits from the Respondent on 19 December 2014.
8. The demand did not elicit any response and reminders were sent to the Respondent on 20 April 2015 and 25 April 2016. The reminders were not responded to hence the Claimant instituted the instant proceedings on 14 June 2016 seeking the Kshs 340,906/- as earlier computed by HR Strategic Partners.
9. According to an affidavit of service filed in Court on 1 September 2016, the Respondent was served with Notice of Summons and pleadings on 13 July 2016 and it acknowledged service through its Legal Officer who stamped on a copy of the Summons (annexed to affidavit of service).
10. The Respondent entered an appearance through the Federation of Kenya Employers on 24 October

2016, but it was not until 24 January 2017 that a Response was filed (the Response was filed way outside the prescribed time and without securing leave of Court).

11. The Response was filed after the Claimant had served a hearing notice upon the Federation of Kenya Employers on 8 December 2016.

12. The Respondent was not represented during the hearing nor did it send a representative.

13. The Claimant gave sworn testimony when the hearing proceeded on 20 February 2017 and the same being unchallenged and or uncontroverted, the Court finds for the Claimant in the sum of Kshs 340,906/- as sought.

14. Claimant to have costs of Kshs 45,000/-.

Delivered, dated and signed in Nakuru on this 10th day of March 2017.

Radido Stephen

Judge

Appearances

For Claimant Mr. Chege instructed by Chege Gakuhi & Co. Advocates

For Respondent Federation of Kenya Employers (did not appear at hearing)

Court Assistants Nixon