



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF

KENYA AT NAIROBI

CAUSE 226 OF 2015

JULIET JOY ATIENO.....CLAIMANT

VERSUS

ORIENT CUISINE.....RESPONDENT

JUDGEMENT

1. The claimant averred that she was employed by the respondent as a manager on a basic pay of Kshs 25,000 per month. According to her she discharged her duties satisfactorily until 4th November, 2014 when she was called by the respondent's director and accused of theft and her services terminated.

2. According to her on the 25th October, 2014 night she issued out items required for that night to relevant employees, locked the store and handed the keys to the cashier who was acting as supervisor on that particular night. She reported to work the next morning and indeed found a few items were missing. She informed the senior security about it and later the director but nothing was done.

3. The claimant further complained that during the period of her employment she worked long hours with no payment of overtime and further that the respondent omitted to remit her NSSF and NHIF contributions.

4. The case proceeded as an undefended cause after the court became satisfied that the respondent was properly served but failed to enter appearance and file a defence to the claim.

5. In termination of employment claims, the onus of proof of reasons for termination rests on the employer. In the case before me, the employer has failed to do so with the consequence that the court only has the claimant's testimony.

6. The court will therefore enter judgement in favour of the claimant as follows:

- | | |
|---|---------|
| a. One month's salary in lieu of notice | 25,000 |
| b. Overtime pay | 194,688 |
| c. House allowance | 22,500 |
| d. Three months pay as compensation for | |

unfair dismissal

75,000

317,188

e. Costs of the suit

7. It is so ordered.

Dated at Nairobi this 3rd day of March, 2017

Abuodha J. N.

Judge

Delivered this 3rd day of March, 2017

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge