

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT MOMBASA
CAUSE NUMBER 832 OF 2016

BETWEEN

EVANS OKONGO.....CLAIMANT

VERSUS

1. DHANJAL INVESTMENTS LIMITED

2. TRAVELLERS BEACH HOTEL & CLUB.....RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Kanyi J & Company Advocates for the Claimant

No appearance for the Respondents

JUDGMENT

1. The Claimant filed his Statement of Claim on 25th October 2016. He states he was employed by the Respondents as a Gardener on 14th February 2012. He was paid a daily wage of Kshs. 250. His contract was terminated by the Respondent without just cause and/or notice, on 30th May 2015. He prays for a declaration that termination was unfair; compensation the equivalent of 12 months' salary for unfair termination; annual leave pay at Kshs. 22,134; notice pay at Kshs. 15,810; service pay at Kshs. 31,500; and holiday pay at Kshs. 46,376, added up at Kshs. 308,181. He also prays to be issued with the Certificate of Service, and for the costs.

2. The Respondent did not enter appearance or file response in any form. The Claimant was heard by way of formal proof, on the 23rd March 2012.

3. The Court is satisfied his Claim has merit. He was unfairly dismissed by the Respondents. He was not given a fair and valid reason for the decision. He was denied notice. He did not utilize his annual leave entitlement. He worked over the holidays without compensation. He was not shown to be a beneficiary under any Social Security Plan, and is eligible for service pay. In all the Court, in the absence of any counterevidence, finds in favour of the Claimant. ***It is ordered that: the Respondent shall pay the Claimant the total sum of Kshs. 308,181 as detailed in the Statement of Claim. Costs granted to the Claimant.***

Dated and delivered at Mombasa this 21st day of June 2017

James Rika

Judge