



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

AT NYERI

CAUSE NO. 189 OF 2017

PAUL WAMBUGU KAMWERU.....CLAIMANT

VERSUS

SECURE HOME SERVICES.....RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday, 17th November, 2017)

JUDGMENT

The statement of claim was filed on 15.05.2017 through Warutere & Associates. The respondent prayed for judgment against the respondent for:

- a) General damages for unlawful dismissal.
- b) Outstanding dues as set out in the pension scheme rules.
- c) 1 month's salary in lieu of notice Kshs.7, 000.00.
- d) Unpaid leave for 3 years at Kshs.7, 000.00 per year making Kshs.21, 000.00.
- e) Costs of the suit.

Despite service the respondent did not enter appearance or file a response or attend the hearing.

The claimant testified that he was employed by the respondent as a guard in February 2012. On 20.08.2015 the claimant was on duty as deployed at the Co-operative Bank, Nyeri Branch when the respondent's manager told the claimant he would be transferred to Nairobi. The claimant testified that he requested for time to prepare for the transfer and shortly thereafter, the manager told him that he had been terminated from employment.

The court has considered the claimant's evidence and returns that the reason for termination was invalid as envisaged in section 43 of the Employment Act, 2007 because the claimant had a valid grievance. Such valid grievance did not constitute a fair reason for dismissal as per section 46(h) of the Employment Act, 2007. The court has considered that the claimant did not contribute to his termination and that the reason being unlawful, the circumstances were thereby aggravating and he is awarded 12 months' salaries in compensation making **Kshs. 84,000.00** at Kshs.7,000.00 per month and being the last gross pay. As there was no termination notice, he is awarded **Kshs.7, 000.00** in lieu of notice. Further, **Kshs. 21,000.00**

is awarded in lieu of annual leaves due but not granted per section 28 of the Act.

In conclusion judgment is hereby entered for the claimant against the respondent for:

a) Payment of **Kshs.112, 000.00** by 15.12.2017 failing interest at court rates to be paid thereon from today till full payment.

b) The respondent to pay the claimant's costs of the suit.

Signed, dated and delivered in court at **Nyeri** this **Friday, 17th November, 2017.**

BYRAM ONGAYA

JUDGE