



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA AT KISUMU
INDUSTRIAL CAUSE NO. 101 OF 2014
(BEFORE HON. LADY JUSTICE MAUREEN ONYANGO)

KENYA NATIONAL PRIVATE SECURITY WORKERS UNION APPLICANT

-Versus-

NEW SIMBA SECURITY RESPONDENT

JUDGEMENT

The Claim herein was filed by the Kenya National Private Security Workers Union, a Trade Union Registered to represent workers in the Private Security Industry, on behalf of Meshack Sasa Ka Mandila the Grievant whom it alleges was its member.

The Claimant alleged that the Grievant was employed by the Respondent, New Simba Security as a security guard on 15th November, 2012 at a salary of Shs.2,100 per month.

On 16th October, 2012 the Grievant gave the Respondent 3 months notice of his intention to retire. At the end of the 3 months notice he was not paid his terminal dues.

In the Memorandum of Claim filed on 29th May, 2014 it is alleged that the Grievant had a clean record, that he retired after attaining retirement age and was not paid his terminal benefits. The Claimant seeks payment of retirement benefits, arrears of house allowance, overtime worked and gratuity. The tabulation of the benefits is in the annexure APP "E" of the Memorandum of Claim as follows:-

Legal Wages as from May 2011 - April 2012	Kshs.8,463 x 12 =	Kshs.101,556
Wages Paid	=	<u>Kshs. 45,600</u>
Balance	=	<u>Kshs. 55,956</u>
H/A	<u>8,463 X 15</u>	
	100	Kshs.1,269 X 12 = <u>Kshs.15,228</u>
Legal Wages as from May 2012 - January 2013	Kshs.9571 x 9 months =	Kshs.86,139
Wages Paid	Kshs.3800 x 9 months =	<u>Kshs.34,200</u>
Balance	=	<u>Kshs.41,939</u>

House Allowance 9,571 x 15
100 = Kshs.1,436 x 9 = Kshs.12,924

4hrs overtime daily from May 2011-April 2012 Kshs.4,901 x 12 months = Kshs.58,812

4 hrs Daily overtime from May 2012-January 2013 Kshs.5,550x9 months = Kshs.49,950

Annual Leave 2010 - 2011 & 2011/2012 Kshs.9,571 x 3 years = Kshs.28,713

Gratuity Kshs.9,571 x 18 x 10 years = Kshs.66,260
26 days

GRAND TOTAL

2011 May - 2012 April Wages Areas = Kshs. 55,956

House Allowance May 2011 - April 2012 = Kshs. 15,226

2012 May - January 2013 Wages Areas = Kshs. 41,939

House Allowance May 2012 - January 2013 = Kshs.12,924

Overtime 2011 - April 2012 = Kshs.55,811

Overtime May - 2012 - January 2013 = Kshs.49,950

2010/2011 Annual Leave
} =Kshs.28,713

2011/2012 Annual Leave

TOTAL =**Kshs.250,951**

10 years Gratuity =Kshs. 66,260

=Kshs.326,782

The Grievant testified at the hearing and reiterated the averments in the memorandum of claim.

The Respondent was served with the Memorandum of Claim and filed a Memorandum of Appearance through Kulecho, Musomba & Company Advocates but did not file a defence to the Claim. The Respondent did not attend the hearing of the cause even though they were properly served with hearing notice as is evidenced by the affidavits of service in the court file.

Having been served and having failed to respond to the Claim, I can only assume that the Respondent had no defence to the claim.

The only claim is for payment of terminal dues following the Grievant's retirement.

I have looked at the tabulation of terminal benefits and confirm that they are based on the Legal Notices for statutory minimum wages for the relevant years. The Regulation of Wages and Conditions of Employment (General) Order and the Regulation of Wages and Conditions of Employment (Protective Security Services) Order.

I therefore award the Claimant the sum of Shs.326,782 as prayed. There will be no orders for costs.

Dated and signed and delivered this 26th day of February, 2016

MAUREEN ONYANGO

JUDGE