



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 439 OF 2015

JAMES MWANGI MUCHERU aka MUGO.....CLAIMANT

VERSUS

GIKOE MUNG'ARIA INVESTMENTS CO. LTD.....RESPONDENT

JUDGMENT

1. This cause proceeded ex parte after the Court became satisfied that the respondent though served failed or ignored to file a response to the claim.
2. On 8th January, 2014, the claimant claimed he was dismissed in writing by the respondent but not given a reason for such dismissal. He however stated that he was accused of embezzling the rent collected. According to him the Chairman, Secretary and Treasurer took the money.
3. It was his evidence that he reported the dismissal to the Ministry of Labour and the respondent never showed up to settle the issue. He therefore sought an order for compensation from the Court as prayed in his memorandum of claim.
4. The matter though proceeded as undefended, the claimant still had a duty to prove his claim before the Court.
5. On the issue of underpayment, the claimant apart from attaching copies of wage orders did not produce any document or record to show how much he was paid in order for the Court to compare and determine if indeed he was underpaid and by how much and or how long. This claim is therefore not sufficiently proved hence disallowed.
6. On the claim for leave and rest days for 11 years the Court also finds the same unsustainable since the claimant neither in his oral evidence nor by any record in his pleadings showed that he asked for leave and was never granted.
7. The Court will however for failure by the respondent to appear to defend reasons for 164,355.00
8. It is so ordered.

Dated at Nairobi this 15th day of April 2016

Abuodha Jorum Nelson

Judge

Delivered this 15th day of April 2016

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha Jorum Nelson

Judge