



REPUBLIC OF KENYA
EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. 2122 OF 2015

(Before Hon. Lady Justice Hellen S. Wasilwa on 25th July 2016)

DENNIS MOSES MAUNDACLAIMANT

VERSUS

PINKERTONS KENYA LIMITED RESPONDENT

JUDGMENT OF THE COURT

1. The Claimant herein filed a Memorandum of Claim dated 02nd December 2015 for unlawful and unfair termination where he prays as follows:

1. The sum of Kshs 247,695 particularized as follows including compensation for wrongful dismissal to a maximum of 12 months' wages.

<i>a. One month's salary in lieu of notice</i>	<i>Kshs 10,911.00</i>
<i>b. One year Leave</i>	<i>Kshs 7,637.70</i>
<i>c. Unpaid Salary for September 2014</i>	<i>Kshs 5,456.00</i>
<i>d. Service Pay (10911/30 x 15 x 12 months)</i>	<i>Kshs 11,365.00</i>
<i>e. House Allowance @ 15% on the basic Salary (10911 x 15% x 25 months)</i>	<i>Kshs 40,916.00</i>
<i>f. Underpayment for the period</i>	
<i>May 2013 (17,368.00)</i>	
<i>August 2014 (23,110)</i>	<i>Kshs 40,478.00</i>

g. Compensation for unfair

termination (10,911 x 12)

Kshs 130,932.00

TOTAL

Kshs 247,695.70

2. Costs of this suit

3. Interest in (i) and (ii) above

4. Any other relief as the court may deem fit.

Facts of the matter

2. The Claimant was employed by the Respondent on or about 24th August 2012 through an oral contract and conducted his duties diligently and faithfully until 15th September 2014 when the Respondent without due regard to the process of law, was issued with a summary dismissal letter.

3. The Claimant states that he was not given notice, house allowance, leave and was under paid as indicated above.

4. The Claimant does not belong to any registered pension or provident fund scheme under the Retirement Benefits Acts or as a member of NSSF as contained in the Employment Act.

5. The Claimant states that the employer acted in contravention of Section 41, he was not given grounds of dismissal, nor were any reasons given to him in a language that he could understand.

6. In Court, the Claimant stated in open Court that he was removed from his station and asked to report to the office, where the Operations Manager asked him to go home and await further communication. He was later informed that his employment was no more and he stood as terminated.

7. Efforts to communicate to the Managers proved futile and he was not paid his terminal dues.

8. They Claim is undefended.

9. Having considered evidence of Claimant, I find that no reasons were given for Claimant's dismissal and neither was due process followed. The Respondents were served with a demand notice through Kituo Cha Sheria and they failed to respond.

10. The Claimant has proved his case as required. I find his dismissal unfair and unjustified. I award him accordingly as follows:

1. 1 months salary in lieu of notice 10,911/=.

2. Leave for 1 year = 9,637.70/=

3. Salary for September 2014 = 5,4560/=

4. Service pay for 2 years = $\frac{1}{2} \times 10,911 \times 2 = 10,911$

5. House allowance at 15% of pay = $\frac{15}{30} \times 10,911 \times 24 \text{ months} = 39,279.6/=$.

6. 12 months salary as compensation for unfair termination = 130,932/=.

TOTAL = 207,126/=

7. Costs.

Read in open Court this 25th day of July, 2016.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Claimant present in person

No appearance for Respondent