



**REPUBLIC OF KENYA**  
**EMPLOYMENT AND LABOUR RELATIONS COURT**  
**OF KENYA AT NAIROBI**  
**CAUSE NO. 2060 OF 2015**

**(BEFORE HON. LADY JUSTICE HELLEN S. WASILWA ON 13<sup>TH</sup> SEPTEMBER, 2016)**

**ANTHONY ASHIUNDU SUKUNDI.....CLAIMANT**

*VERSUS*

**IMPALA COURT SECURITY GUARDS..... RESPONDENT**

**JUDGMENT**

1. The Claimant herein has filed his Memorandum of Claim dated 19<sup>th</sup> November 2015 where he prays for:

***(i) The sum of Kshs.107,800.00 particularized as:***

***(a) Salary in lieu of notice Kshs.7,000/=.***

***(b) Service pay for 2 years***

***(7,000/30 x 15 x 2) = Kshs.7,000/=***

***(c) Leave days for 2 years***

***(7,000/30 x 21 x 2) = Kshs.9,800/=***

***(d) Compensation for unfair termination***

***(7,000 x 12) = Kshs.84,000/=***

***TOTAL = Kshs.107,800.00***

***(ii) Costs of the suit.***

***(iii) Interest in (i) and (ii).***

***(iv) Any other relief as the Court may deem fit.***

2. The facts of the Claim are that the Claimant was employed on or about the 12<sup>th</sup> of June 2012 through

an oral contract. He performed his dues diligently until September 2014 where without any notice, he was abruptly terminated.

3. The Claimant states that he was served with a summary dismissal letter but he was not given notice nor was any explanation as to the reason for termination forwarded to him. This was in direct contravention of Article 41 of the Employment Act.

4. The Claimant does not belong to any registered pension or provident fund scheme under the Retirement Benefit Authority; he is not a member of the NSSF and is therefore entitled to service pay.

5. In Court, the Claimant testified that upon termination he was not paid his dues, he has served the Respondent on several occasions but no response has been forthcoming.

6. He asks the Court to award as prayed.

7. Having considered the evidence of the Claimant, there was no proof of any employment relationship between Claimant and Respondent as alleged.

8. Though the Claimant had stated in his pleadings that he was summarily terminated, the summary dismissal letter was also not produced in Court.

9. I find that the case of the Claimant falls below the standard of proof required. I therefore dismiss this case accordingly with no order as to costs.

Read in open Court this 13<sup>th</sup> day of September, 2016.

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Claimant in person – Present

No appearance for Respondent