



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA**

**CAUSE NUMBER 659 OF 2015**

**BETWEEN**

**RICHARD MWASHOMBO MWACHOKI ..... CLAIMANT**

**VERSUS**

**FIVE STAR PLASTIC COMPANY .....RESPONDENT**

*Rika J*

*Court Assistant: Benjamin Kombe*

***IRB Mbuya & Company Advocates for the Claimant***

***No appearance for the Respondent***

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**JUDGMENT**

1. The Claimant filed his Statement of Claim on 2<sup>nd</sup> September 2015. He asserts he was employed by the Respondent early June 2012, as a Labourer. The Respondent deals with warehousing of goods. The Claimant worked until June 2014 when the Respondent terminated his contract. He earned Kshs. 500 per day, as at the time of termination. The Claimant states termination was unfair and unlawful. No reason was advanced by the Respondent to justify its decision. The Claimant prays for the following orders against the Respondent:-

- a) 1 month salary in lieu of notice at Kshs. 13,000.
- b) Annual leave pay for 2 years at Kshs. 21,000.
- c) 15 days' salary for every year completed in service at Kshs. 15,000.
- d) 12 months' salary in compensation for unfair termination at Kshs. 156,000.
- e) Certificate of Service to issue.
- f) Costs, Interest and any other suitable remedy.

2. The Respondent did not make an appearance, file any Response, or attend Court on any one occasion.

The Claimant opted to prosecute his Claim through adoption of his unchallenged Pleadings, Documents and Submissions.

3. Upon evaluation of this record, the **Court Finds:-**

- i. The Claimant was employed by the Respondent warehousing Company as a Labourer, between June 2012 and June 2014, a period of 2 years, earning Kshs. 500 per day.*
- ii. His contract was terminated by the Respondent without notice and cause, contrary to the Employment Act 2007.*
- iii. He was not paid any terminal dues, which include notice pay, annual leave pay, and service pay.*
- iv. He merits compensation for unfair termination and is granted 10 months' salary in compensation.*

**It is ordered: -**

- a) Termination was unfair and unlawful.***
- b) The Respondent shall pay to the Claimant 1 month salary in lieu of notice at Kshs. 13,000; annual leave pay for 2 years a Kshs. 21,000; service pay at 15 days' salary for every completed year of service at Kshs. 15,000; and 10 months' salary in compensation for unfair termination at Kshs. 130,000- total Kshs. 179,000, payable within 21 days of delivery of this Judgment.***
- c) Costs to the Claimant.***
- d) Interest allowed on the principal amount at 14% p.a. from the date this Judgment is delivered.***
- e) Certificate of Service to issue.***

Dated and delivered at Mombasa this 18<sup>th</sup> day of October 2016.

James Rika

Judge