



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT AT NAIROBI**

**CAUSE NO. 1118 OF 2014**

**JUDGMENT**

**JEMIMAH MUTHONI N'NYIRI**

**VERSUS**

**EUNICE AMER MANYOK**

**DELIVERED BY**

**HON. LADY JUSTICE HELLEN WASILWA**

**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT OF KENYA AT NAIROBI**

**CAUSE NO. 1118 OF 2014**

**(Before Hon. Justice Hellen S. Wasilwa on 15<sup>th</sup> January, 2015)**

**JEMIMAH MUTHONI N'NYIRI.....CLAIMANT**

**VERSUS**

**EUNICE AMER MANYOK.....RESPONDENT**

**JUDGMENT**

The Claimant herein filed her statement of claim on 4<sup>th</sup> July 2014 in person. She claims that on 2<sup>nd</sup> September 2012, the Respondent employed her as a house help paying her a salary of Kshs.8,000/= per month. The Claimant served the Respondent faithfully until 6<sup>th</sup> January 2014 when the Respondent terminated her service. She demands payment of her terminal dues inclusive of:

1. 1 months salary lieu of notice – Kshs.8,000/=
2. Annual leave – Kshs.7,000/=
3. Service pay – Kshs.5,000/=

4. Underpayment of wages from May 2013

– December 2013= Kshs.9,780.95

– 8,000 x 7 month = Kshs. 12,466.94

**Total - Kshs.32,466.65**

She also prays for damages for unlawful termination equivalent to 12 months salary plus issuance of a Certificate of Service.

The Claimant served the Respondent with the notice of Summons and Memorandum of Claim on 18<sup>th</sup> July 2014 through one Chol Madak as per the return of service filed in court on 21<sup>st</sup> August 2014. The Respondent never filed any reply/defence. There was a subsequent mention of the matter on 5<sup>th</sup> November 2014 for directions for which she also never attended. The Court then directed that the matter proceeds for formal proof.

The Claimant has given oral evidence before this and stated her case. There is proof that she had a relationship with the Respondent and when she was terminated, she sought help from Kituo Cha Sheria. Kituo Cha Sheria wrote a demand notice to the Respondent on 12<sup>th</sup> March 2014 and 10<sup>th</sup> February 2014. The Respondent also failed to reply.

Upon considering the evidence of the Claimant it is the finding of this court that the Claimant served the Respondent and left as indicated.

She demanded payment for leave which I find not tenable as she has already told the court in her evidence that she went on leave from 21<sup>st</sup> December 2013 and was terminated on 6<sup>th</sup> January 2014 when she returned from leave. She also demanded payment of underpayment which she has not proved through her evidence.

However given that she was not given any notice or hearing before termination, I find that the termination was unfair and unlawful. I therefore find for the Claimant and enter judgment for her as follows:

1. 1 months salary lieu of notice – Kshs.8,000/=
2. 12 months salary as damages for unlawful termination = 8,000 x 12 = 96,000/=
3. 15 days salary for each year worked being service pay =  $1.4 \times 15/30 \times 8,000 = 5,600/=$

**Total due - Kshs.109,600/= plus costs**

She should also be issued with a Certificate of Service.

Read in open Court this 15<sup>th</sup> day of January, 2015

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Jemimah Muthoni N’nyiri Claimant in person

No appearance for Respondent