



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NUMBER 1023 OF 2011**

**DAVID MUTINDA IKOTHYA.....CLAIMANT**

**VERSUS**

**MATHARA HOLDINGS LIMITED.....RESPONDENT**

**JUDGMENT**

1. On 14<sup>th</sup> January, 2015, I directed that this matter be dispensed with by way of written submissions since the issue in dispute was clear and short and did not require any oral hearing as the documents filed were sufficient.
2. The claimant according to his letter of appointment was appointed on 14<sup>th</sup> August, 2010 at a monthly salary of Kshs.45,000/=. He was to be on probation period for 6 months during which either party could terminate the contract by giving 24 hour notice.
3. According to the claimant and which is not disputed by the respondent, he resigned from his employment on 2<sup>nd</sup> November, 2010 but in a quick rejoinder, the respondent acknowledged his letter of resignation but stated the same was not necessary since his services had been terminated the previous night. That is to say 1<sup>st</sup> November, 2010.
4. This is the only issue this Court will determine since the other heads of claim both by the claimant and respondent were not adequately proved.
5. The claimant as said was still on probation when he allegedly resigned or was dismissed as claimed by the respondent. Considering that both parties had through their opposing emails evidenced their intention to end their contractual relationship, the issue of the timing of the respective notices may not be important. The claimant was on probation and he resigned or was terminated by the respondent during the probationary period and in accordance with the stipulations contained in the letter of appointment.
10. The claimant at the point of termination had worked from the month of October for which the respondent acknowledges he should be paid. The Court therefore orders that the claimant be paid his salary for the month of October, 2010.
11. The counterclaim by the respondent was not sufficiently proved and the same is hereby dismissed.
12. Each party to shall bear their own costs of the suit.

Dated at Nairobi this 19<sup>th</sup> day of March 2015

Abuodha J. N.

Judge

Delivered this 19<sup>th</sup> day of March 2015

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge