

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI

CAUSE NO. 78 OF 2014

ZABLON GICHUHI NJUGUNA..... CLAIMANT

VERSUS

ELITE EARTH MOVERS..... RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday 3rd July, 2015)

JUDGMENT

The claimant filed the statement of claim on 19.06.2014 through King'ori & Company Advocates. The claimant prayed for judgment against the respondent for Kshs. 463, 344.31 being salary arrears Kshs. 328, 461.54 and service pay for 3 years Kshs. 134, 882. 77.

The respondent filed the memorandum of response on 15.09.2014 through Amolo & Gachoka Advocates. The respondent prayed that the claimant's claim be dismissed with costs.

The parties agreed to rely on the pleadings and the documents on record without calling witnesses. For each party final written submission was to be filed. The claimant filed the submissions but the respondent failed to file.

The only issue for determination is whether the claimant is entitled to the remedies as prayed for.

The claimant filed the affidavit sworn on 26.09.2014 exhibiting the relevant employment contract and the salary statement which showed that as at 19.08.2011 he was owed Kshs. 328, 461.00 in unpaid salaries. The respondent did not establish any opposition to that evidence and the court finds that the claimant is entitled to that money in unpaid salaries.

The claimant has prayed for the service pay as the reasonable pay under the Employment Act, 2007. Section 35(5) of the Act entitled the claimant to service pay following the termination of the contract and the court finds that in absence of material on record to find the claim inimical, the claimant is justified as claimed and the same is awarded.

In conclusion judgment is entered for the claimant against the respondent for:

- 1. The respondent to pay the claimant a sum of Kshs. 463, 344.31 by 1.09.2015 failing interest at court rates to be paid thereon from the date of the suit 19.06.2014 till full payment.**
- 2. The respondent to pay costs of the suit.**

Signed, dated and delivered in court at Nyeri this Friday, 3rd July, 2015.

BYRAM ONGAYA

JUDGE

