

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT NAIROBI

CAUSE NUMBER 19 OF 2014

BETWEEN

JOHN KIPLANG'AT KOECH..... CLAIMANT

VERSUS

KENYA AIRPORTS AUTHORITY (KAA).....RESPONDENT

RULING

The Applicant states he was unlawfully and summarily dismissed by the Kenya Airports Authority in January 2007.

He filed a Claim in the Chief Magistrates' Court at Nairobi on 21st December 2007, seeking notice pay, termination dues, and damages for unlawful termination.

The Magistrate declined jurisdiction and transferred the Claim to the Industrial Court. On 9th May 2013, the Hon. Principal Judge Nderi Nduma ordered that the Magistrate had no authority to transfer the file to the Industrial Court. The file was referred to the Magistrates' Court for the proper procedure to be followed.

On 27th February 2014, the Applicant filed *an ex parte* Originating Summons, asking for leave to file Claim out of the prescribed time.

The Application was heard on 25th March 2014.

The Court finds and Orders:-

1. The Applicant has not revealed to the Court whether he has gone back to the Magistrates' Court as ordered by the Principal Judge of the Industrial Court, and if proper procedure was followed at the Magistrates' Court as ordered.
2. In the absence of this revelation, it is improper for the Applicant to return before a different Judge in the same Court, and seek leave to file a fresh Claim.
3. The Court lacks jurisdiction in any event to extend time as prayed. Termination of Employment that arose in 2007. The Applicant seeks to enforce CBA obligations. His Claim ought to have been litigated under the Trade Disputes Act Cap 234 the Laws of Kenya, as read together with Section 84 of the Labour Relations Act No. 14 of 2007.
4. The Court's hands are tied. *The Application is dismissed, with no order on the costs.*

Dated and delivered at Nairobi this 8th day of July 2014

James Rika

Judge