



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT OF KENYA AT KISUMU**

**CAUSE NO. 259 OF 2013**

(Before Hon. Justice Hellen S. Wasilwa on 27<sup>th</sup> November, 2014)

FLORA NASIMIYU TWALE ..... CLAIMANT

**-VERSUS-**

MAHBOOB FARAJ..... RESPONDENT

**JUDGMENT**

The claimant herein Flora Nasimiyu Twale filed her memo of claim on 17.9.2013 through the firm of Anassi Momanyi & Co. Advocates.

The claimant claims that she was an employee of the respondent as a househelp between 1999 to December 2012 when she resigned from employment. During the period, she stated that she was earning Kshs 2,000/= per month from 1999 to 2011 December and then Kshs 4,000/= per month from January 2012. It is her position that during the period, she was underpaid to the tune of Kshs 602,844/=. She also stated that she never went for leave during the period and demands payment in lieu of leave totalling Kshs 78,510. She also prays for costs.

In cross-examination she said she worked for respondents for 14 years and always complained of the underpayment. She also stated that she was not given any appointment letter. She called one witness one Jane Wasike who testified that she too was a fellow worker with claimant and left work on 24.12.2012.

The respondents on the other hand filed their statement of defence on 30.9.2013 through the firm of M/s Onyinkwa & Co. Advocates. It is the respondent's contention that the claimant was never their employee as alleged and he is a stranger to claimant's contentions. The respondents also gave evidence and stated that the claimant used to work for him occasionally especially on Monday and Friday but he never employed her.

Given the evidence on record by both parties, I find that the evidence of claimant does not prove what she used to earn. In the absence also of a written contract and even a master roll, what this court is presented with is claimant's word against the respondent. I therefore find that the case of claimant is not proved as expected and I dismiss it accordingly. Each party will meet it's costs.

**HELLEN S. WASILWA**

**JUDGE**

**27/11/2014**