

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA AT NAKURU

CAUSE NO. 78 OF 2013

-VERSUS-

The claimant **Evans Tela** filed the memorandum of claim on 11.04.2013 through Oumo & Company Advocates. The claimant prayed for judgment against the respondent for payment for underpayments, overtime, rest-days and off duties, public holidays, leave, gratuity and compensation in the sum of Kshs.1,445,507.90. The respondent was served and filed the memorandum of appearance and the defence on 24.04.2013 through Rubua Ngure, Wangari & Company Advocates. The respondent denied the claimant's claims and pleaded that he was a stranger to all the allegations. The case was fixed for hearing on 13.06.2013. The hearing notice was served but the respondent failed to attend the hearing. The claimant gave evidence to support his case and called one witness (CW) namely Harun Amani Aluse.

He was employed by the respondent in 2000 as a night guard at the respondent's residence at a monthly pay of Kshs. 3,000. The contract of service was oral.

- **Whenever he was sick or with pressing private business like when his wife died he had to get a friend to stand in for him on duty and he had to pay such friend because the respondent refused to grant any leave or permission.**
- **The claimant was not given any termination notice or paid any terminal dues.**
- **The claimant relied on the details as set out in his claim on record.**

The claimant's written submissions were filed on 21.06.2013. The main issue for determination is whether the claimant is entitled to the remedies as prayed for. The claimant's counsel submitted that the claimant had proved his case on a balance of probabilities and was entitled to the prayers as set out in the memorandum of claim.

In conclusion, judgment is entered for the claimant against the respondent for the respondent to pay the claimant **Kshs.1,445,507.90** plus costs of the case.

JUDGE