

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT NAKURU

CAUSE NO. 95 OF 2013

KAJIWE KAMAU WACHIURI.....CLAIMANT

VERSUS

JEASKA FOODS LIMITED.....RESPONDENT

JUDGMENT

The Claimant **Kajiwe Kamau Wachiuri** filed the memorandum of claim on 23.04.2013. The Respondent **Jeaska Foods Limited** was served the summons and the memorandum of claim on 2.05.2013 and appointed W. Kigen & Company Advocates who filed a memorandum of appearance on 19.06.2013. The Respondent did not file the memorandum of response.

On 19.06.2013, the court fixed the case for hearing on 4.7.2013. The Claimant served the hearing notice as directed by the court and despite the service, the respondent and its Advocates did not attend the hearing. The Claimant gave evidence to support his case.

The Claimant was employed by the respondent as a Heavy Commercial Driver (**Truck**) by an oral agreement on 28.06.2011 and at a monthly pay of Kshs.20,000/=

The Claimant worked in the months of July, August, September, October, November, December, 2011 and part of January, 2011 and the total unpaid monthly dues amounted to Kshs.67,767/=. The Claimant had school going children. In preparation for 2011 academic year, he demanded to be paid his outstanding monthly pay. The respondent's Managing Director known as Mr. Munyitto informed him that there was no money at the time to pay the outstanding salaries.

On 6.01.2011, the Claimant requested for permission to proceed to make arrangements for the borrowing of school fees. The permission was granted. While on that leave, the Respondent's Managing Director telephoned him and advised him not to resume duty because another driver had been employed in his capacity.

The Claimant made demands for payment of his dues but the Respondent declined to pay. The Labour officer computed the claim to be Kshs.95, 843.90 as per the letter dated 25.02.2013 attached on the memorandum of claim.

The court has considered the pleadings and the evidence and finds that the Claimant has established his claim against the respondent.

In conclusion, judgment is entered for the Claimant against the respondent for payment of **Kshs.95, 933.65** plus costs of this case fixed at Kshs.15, 000/=. The Respondent to pay the amount by 1.08.2013, failing which, interest to be payable at court rates from the date of this judgment till full payment.

Dated, signed and delivered in court at Nakuru this Thursday 4th July, 2013 at 12.30 p.m. in presence of the Claimant and absence of the Respondent.

BYRAM ONGAYA

JUDGE

4.07.2013