



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA

AT NAIROBI

CAUSE NO. 1978 OF 2011

Kenya Shoe & Leather Workers Union

-VERSUS-

East Track Management Consultants Ltd

This is an economic dispute and the issues in dispute are;

1. House allowance;
2. Termination of Employment;
3. Effective date and duration of the Agreement.

Some issues were agreed upon during negotiations and others were not agreed upon.

A conciliator Mrs. Ann Guchu of Kiambu Labour Office was appointed.

The Claimant filed a Memorandum of Claim on 21st November, 2011 and a Response was filed by the Respondent on 23rd April, 2012.

The business of the Respondent is to supply labour to Bata Shoe Company Limited covering an agreed contracted period at a fee that covers its administrative costs and wages of the persons it employs.

Class A employees Kshs.335 per day.

- Class C employeesKshs.380 per day.

General labourers.....Kshs.8,594/=.

2. zips, plastics, DI coating, EVAKshs.8,594/=.
4. Graded Artisans (electricians, welders, plumbers, Mechanics)

Grade IIKshs.15,000/=.

Ungraded ArtisansKshs.11,772/=.

5. Small vanKshs.10,242/=.
6. Heavy vehiclesKshs.16,481/=.
7. CooksKshs. 9,888/=.
8. The Respondent submits that it pays daily rates fortnightly. That the grades proposed by

the Claimant are non-existent. Furthermore the type of work the employees contracted by the Respondent do, do not cover those grades. That the minimum wages demanded is way above the ability of the Respondent to pay. The Respondent submits that the claim by the Respondent be dismissed.

The Claimant has rejected that proposal stating that the cost of living has gone up and every worker has been affected. That colleagues working for Bata Shoe Company enjoy better terms than the Grievants for equal work.

That a basic minimum wage ought to be set for each category of workers as is the case with the employees of Bata Shoe Co. (K) Ltd.

The classifications by the Respondent into A, B and C should reflect the trade classification in the General order for purposes of determining the general minimum wage applicable to each employee.

2. House Allowance

That housing allowance is a mandatory requirement in terms of **Section 31** of the **Employment Act 2007**. That most of the employees live in slums. The Claimant seeks an order compelling the Respondent to pay reasonable housing allowance.

Since the court has directed that the Respondent apply the current basic minimum wage to all category of employees plus 5%, the court awards 10% of the basic minimum wage as house allowance across the board.

The Claimant provides 21 days leave to the employees but does not pay travelling allowance. The Claimant proposes payment of Kshs.3,000/= leave travelling allowance.

No evidence was presented to show the relative location of the employees *vis a vis* the work place. However leave travelling allowance has now become universal and is applicable in almost all sectors.

4. Termination of employment.

Notice pay of;

2. Three (3) months or payment in lieu for employees who have done four (4) years and above.
3. Baggage allowance of Kshs.5,000/= provided one has served for 12 months and above.
5. This clause to apply to retirement on basis of age and on medical grounds.

Considering all the circumstances of the case, and the finding by the court that these employees should not be treated as casuals, the court awards one month notice or payment in lieu thereof across the board as this is the minimum requirement by the Employment Act and severance pay of 15 days salary for each completed year of service across the board.

The court accepts the Respondent's position that there is presently no requirement for night shift allowance and makes no award. If the Respondent requires the employees to work on night shifts it must review this position in consultation with the Claimant.

The issue of effective date was not included in the Certificate of unresolved dispute dated 18th November, 2011. The issue is neither listed in the letter acknowledging the dispute dated 27th November, 2011.

Firstly, the court takes judicial notice that Collective Bargaining Agreement in Kenya last for two

(2) years.

The court therefore directs that this CBA covers the period January, 2013 to December, 2014.

It is so ordered.

MATHEWS N. NDUMA

PRINCIPAL JUDGE