



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
MISC. APPLICATION NUMBER 34 OF 2013

BETWEEN

FRANCIS MURULA.....APPLICANT

VERSUS

FIRESTONE CO-OPERATIVE SAVINGS AND CREDIT SOCIETY LIMITED...RESPONDENT

Ex parte

Rika J

CC. Mr. Kidemi

Mr. Nyabena instructed by Nyabena Nyakundi & Co. Advocates for the Applicant

RULING

The Applicant brought an *ex parte* application dated 30th June 2013, seeking to be allowed to file his Claim out of time. He was employed by the Respondent as a Scrap Collector on 1st September 1991, and dismissed in May 2005, in circumstances he deems unfair and unlawful.

He claims to have fallen ill and was not able to pursue a remedy against his former employer in good time. He feels he is barred under Section 90 of the Employment Act 2007 from seeking such remedy. He undertakes to file the Claim within 14 days.

The Court does not think there is sufficient ground to warrant the prayer, for extension of time. Termination was in 2005, and the correct procedural law would be the Trade Disputes Act Cap 234 as read with Section 84 of the Labour Relations Act Number 14 of 2007. The substantive Law would be the repealed Employment Act Cap 226 the Laws of Kenya and/or the Regulation of Wages and Conditions of Employment Act Cap 229 the Laws of Kenya.

Under the old regime, the Applicant would find there is no strict application of the time limits, wide discretion being given to the Minister/Secretary for Labour, in accepting late termination claims.

The Court is persuaded there is no ground to allow the *ex parte* application, and the *ex parte* Applicant is not completely shut out from accessing justice through other entry points.

IT IS ORDERED:-

- a. ***The application dated 30th June 2013 is dismissed.***
- b. ***No order on the costs.***

Dated and delivered at Nairobi this 20th day of December 2013

James Rika

Judge