



REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 1139 of 2012

JOHN MWANIKI.....CLAIMANT

VERSUS

G4S SECURITY SERVICES LIMITED.....RESPONDENT

RULING

The Respondent has filed a Notice of Preliminary Objection (P.O.) against the claimant's suit. The grounds upon which the Preliminary Objection stands are:-

- (a) The claim is time barred under Section 90 of the Employment Act.
- (b) The Claimant lacks capacity to sue on the dispute before the Court.
- (c) The court lacks jurisdiction to entertain a time barred suit.

The Preliminary Objection was argued *ex-parte* on 1/10/12 after the court was satisfied that the claimant was aware of the hearing date which had been fixed by consent.

The Respondent submitted that the suit was filed on 4-7-12 seeking remedy for unlawful termination. That the claim shows that the termination occurred on 18-7-2008. That Section 90 of the Employment Act restricts time to file claims of that Employment Act restricts time to file claims of that nature to three (3) years. Consequently, the present claim should have been filed latest by 17-7-2011.

I have carefully perused the claim and all the supporting documents and also the submissions advanced by the Respondent. I did not see any leave order enlarging the time within which to file the suit before me.

Consequently, I allow the Preliminary Objection and strike out the claim with no order as to

costs.

Orders accordingly.

DATED and DELIVERED at Nairobi this **26th** day of **October, 2012.**

Onesmus Makau
JUDGE