

REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 1599 of 2011

JOHN NYAMAGE CLAIMANT

VERSUS

SEARITE HOLDINGS LTDRESPONDENT

JUDGMENT

The Claimant John Nyamage filed the Memorandum of Claim on 21st September 2011. The Respondent Searite Holdings Limited was served and appointed Ngugi Waithuki & Company Advocates to represent them. The Advocates filed the Memorandum of appearance on 3rd November, 2011. The matter came up for mention on 20th December 2011 and for hearing on 24th May, 2011 when the Respondent, having been served, did not attend court.

On 31st October, 2012 the claimant was in court and the Respondent and its Counsel were absent despite having been served with the relevant hearing notice. The claimant testified in support of his case. The Claimant stated that he was employed by the Respondent from 1st July 2009 as a Security Guard until sometime in June 2010, when he requested the Respondent to provide him with new uniform and leave as well as overtime due but unpaid. The Respondent's officers alleged that the Claimant had acted unlawfully. The Claimant relied on the demand letter from Kituo Cha Sheria addressed to the Respondent setting out his claim for Ksh.119,733/= and Ksh,84,000.00 for unfair termination.

In absence of any evidence from the Respondent to show the circumstances of the termination and the reasons leading to the termination, and, the Respondent having failed to oppose any of the claims as pleaded by the claimant, the court finds that the claimant has proved his case on a balance of probabilities. The court further finds that the claimant is entitled to the particulars of the claim and remedies as set out in the Memorandum of Claim. The termination was unfair.

Accordingly, judgment is hereby entered for the Claimant against the respondent for:

- (a) the Respondent to pay the claimant Ksh.203,733.30 plus interest at court rates from the date of the judgment till full payment; and
- (b) the Claimant to be paid by the Respondent the costs of the cause.

Signed, dated and delivered this 2nd day of November, 2012.

**BYRAM ONGAYA
JUDGE**