Hotel Human Resource Witness Statement on Paid Rotations and the Recall Conversation

Educational sample 225 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATES COURT AT MOMBASA

CM EMPLOYMENT AND LABOUR RELATIONS CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

WITNESS STATEMENT

1. I am [human resource officer identity and position]. I worked at the hotel during [period]. My evidence concerns the duty arrangements and communications I personally made or attended. Employment records maintained by other staff are identified by their author or custodian.

2. During the reduced trading period, the arrangements communicated to the room steward were [actual terms, date and method]. I explain the paid break or rotation and the work available on return. The payroll supporting continued salary payment is [genuine record]; I do not infer payment merely from an intended policy.

3. I attended the Labour Office meeting on [date] with [persons actually present]. The minutes at [bundle pages] are the document I recognise. My recollection of the steward statements is [truthful account]. If the minutes were written by another person, I identify that person and how the document came into our records.

4. The recall communication I personally made was [date, recipient, words and response]. Any communication made by another employee is attributed to that person. I distinguish a refusal to return from an unanswered telephone call and from a statement reported to me later.

5. The records available on leave, housing and statutory contributions are [identify precisely]. I cannot prove an NSSF payment by saying the employee was registered, and I cannot prove leave was taken without explaining the actual record or my direct knowledge.

6. I will adopt this statement and identify the genuine documents in accordance with the court directions. I make no assertion that every pandemic break was lawful or that absence alone establishes resignation. My account must be tested against the actual communications and payroll.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Use the witness own truthful account, distinguish observed events from named information sources and identify bundle pages and authenticating witnesses. Follow the actual trial or succession witness directions. Additional evidence and statements require any applicable leave. An appeal ordinarily uses the admitted trial record; a new statement cannot be inserted without the proper procedure. Trial-stage statement for the designated Mombasa subordinate court; the linked ELRC decision is the later appeal. Do not file new witness evidence in an appeal without the applicable permission. Verify the ELRC Procedure Rules 2024 and 2025 amendments, or the applicable designated subordinate-court procedure, and current directions. Assess section 90 for each employment claim.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A room steward employed from May 2017 alleged verbal dismissal in May 2021, underpayment, unpaid housing and leave. The hotel said pandemic trading restrictions required paid shift breaks and that she declined a recall. Labour Office meeting minutes and an admission on cross-examination were central to the first appeal from Mombasa CMELRC 465 of 2021. The employer asserted leave and NSSF membership without producing the relevant records.

The ELRC replaced the unfair-dismissal finding with constructive resignation and removed notice pay and unfair-termination compensation. It upheld independently justified employment dues, including underpayment, housing, unused leave and service pay where the employer had not proved the statutory exclusion. Each party bore its appeal costs. The result turned on the actual minutes and recall evidence, rather than a general rule that every absence equals resignation.

Section 49 compensation and notice pay must be distinguished from earned statutory or contractual dues. Sections 31, 35(6) and 74 of the Employment Act and section 48 of the Labour Institutions Act were material. A bare assertion of NSSF participation does not establish the exclusion. Do not confuse constructive resignation found in this case with constructive dismissal caused by an employer breach. Assess limitation and the wage order applicable to each actual period.

[2025] KEELRC 1283 (KLR) - 6 May 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelrc/2025/1283/eng%402025-05-06

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/firimbi-ta-sinai-hotel-v-imungu-2025-keelrc-1283-klr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.