Employer Defence to Dismissal Claim After Workplace Harassment

Educational sample 306 | 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 EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

EMPLOYMENT AND LABOUR RELATIONS CAUSE NO [reference]

[EMPLOYEE CLAIMANT] v [EMPLOYER RESPONDENT]

STATEMENT OF DEFENCE

1. The Respondent admits the employment contract and termination dated [date] as shown by the genuine records. It denies that the termination was unlawful or unfair. The actual claim paragraphs are answered by precise admissions or denials [references].

2. The stated reason was repeated unwelcome conduct toward [colleague identified confidentially], including the authenticated communications and incident particulars disclosed to the Claimant. The Respondent does not rely on rumour or a general character allegation.

3. The Claimant was given a notice to show cause, the relevant material, time to respond and a hearing with the chosen companion, as evidenced at [pages]. The Respondent identifies the representations considered and the reasoned outcome.

4. The appeal and its outcome are [actual records]. Any allegation of a defect in disclosure, time or hearing is specifically answered. The Respondent is required to prove the process and cannot simply assume that an admitted message cures every procedural defect.

5. Reinstatement is opposed on the statutory and practical grounds established by the actual conduct, loss of trust and protection of colleagues. Terminal payments and the certificate of service are separately identified, with proof rather than a bare assertion that all dues were paid.

6. The Respondent asks for dismissal of the claim and appropriate costs, with lawful confidentiality directions for sensitive evidence. It does not claim that this civil employment judgment establishes a criminal conviction against the Claimant.

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

Answer the actual numbered plaint with precise admissions, denials and material grounds. Check summons, appearance, the applicable response period, court directions and the required witness/document pack. A counterclaim or new affirmative relief requires its own proper pleading, fee and service. Do not treat a disputed factual allegation as a pure preliminary objection. 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 laboratory employee challenged termination after complaints of repeated unwelcome messages and conduct toward a colleague. The employer disclosed electronic material, issued a show-cause notice, held a disciplinary hearing with the employee chosen companion and considered an appeal. The employee sought reinstatement.

The Court found the termination justified and dismissed the claim with costs. It rejected the employee explanation that the conduct was mutual despite express requests to stop. Reinstatement was unavailable on the proved conduct and workplace circumstances.

Employment Act sections 6, 41, 43 and 45 require assessment of prohibited harassment, evidence, reasons and process. This is a rejected dismissal challenge, not a specimen to excuse unwelcome conduct. Preserve originals and explain electronic-record authentication and any Evidence Act section 106B requirement. Keep the colleague identity and intimate message contents out of public samples; use lawful disclosure and protective directions in actual litigation.

[2025] KEELRC 3622 (KLR) - 15 December 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/awk-v-bureau-veritas-kenya-limited-2025-keelrc-3622-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/awk-v-bureau-veritas-kenya-limited-2025-keelrc-3622-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.