Harassment Dismissal Employer Submissions on Reasons and Fair Process

Educational sample 310 | 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]

WRITTEN SUBMISSIONS

1. The Respondent asks the Court to assess both the proved reason and the actual disciplinary process. It relies on the admitted communications, complaint and hearing record at [pages], not on a general assertion that harassment was alleged.

2. Section 6 prohibits unwelcome sexual conduct in the workplace setting. Express requests to stop and subsequent persistence are relevant to whether the conduct was welcome; a preferred interpretation by the sender does not determine the recipient response.

3. The disclosure, show-cause response, hearing with the chosen companion and reasoned decision are examined under sections 41, 43 and 45. A genuine complaint does not dispense with the employee fair opportunity to answer it.

4. The electronic evidence must be linked to its source and properly admitted. Complete context, attribution and the foundation supplied by the custodian are addressed. The Respondent cannot turn submissions into a missing certificate or new exhibit.

5. AWK [2025] KEELRC 3622, paragraphs 69–75, found termination justified on the proved repeated conduct and process. It also rejected reinstatement in those circumstances. The remedy here depends on the actual statutory and practical factors, including colleague protection.

6. The Respondent seeks dismissal or the disposition warranted by the evidence and a reasoned costs order. Terminal dues and certificate compliance remain separate issues. No criminal conviction or unproved diagnosis is inferred from an employment finding.

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

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding. 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.