Worker Appeal Submissions on Continuing Employer Identity and Unfair Oral Dismissal

Educational sample 399 | 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 APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

WRITTEN SUBMISSIONS

1. The appellant asks the ELRC to reevaluate the trial record under the applicable first-appeal approach. The issues are who employed the worker, how separation occurred, whether dismissal was fair and which independently pleaded monetary heads were proved.

2. The actual response admitted the employer relationship and monthly pay. Transfer to another worksite did not itself establish a new incorporated employer or a new contract. The source Court treated the worksite as a place of work and found the contrary trial conclusion ungrounded in the pleadings.

3. The piece-rate finding also required a pleaded and evidenced basis. The employer travel pattern and varying household workload could not replace the admitted monthly employment arrangement. Evidence must answer the defined pleaded case rather than introduce an unamended alternative employer story.

4. On separation, distinguish the worker consistent account of manager-led dismissal from the employer voluntary-departure allegation and actual contradictions. The reason and fairness burdens under sections 43 and 45 then require examination alongside the claimant burden and the applicable hearing obligations.

5. Compensation under section 49 is discretionary. The source considered service, circumstances and absence of proved contribution and allowed five months, not the twelve months requested. One month notice was allowed, while nine-year leave pay lacked a factual basis and was rejected.

6. The appellant requests the proved findings and relief only, with lawful interest and costs. Do not insert new witness accounts or payroll documents through submissions. The source ordered interest from the lower-court judgment and awarded costs of the suit; check the exact sealed orders in the actual matter.

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 housekeeper alleged employment from 2012, monthly pay of KES 10,000 and verbal dismissal in March 2021. The employer alleged voluntary departure and poor performance following transfer to another worksite. The trial court dismissed the case and treated the worksite as another employer and the work as piece-rate.

The ELRC allowed the appeal, found continuing indefinite employment and unfair dismissal, and awarded KES 50,000 compensation and KES 10,000 notice pay. The KES 72,000 leave claim failed for lack of factual basis. Interest ran from the lower-court judgment and costs of the suit were awarded.

Check Employment Act sections 36, 41, 43, 45, 47(5), 49 and 90, applicable designated-magistrate procedure and ELRC appeal rules. A worksite transfer is not proof of a change of legal employer. Separate independent accrued-entitlement claims from compensation for unfair termination; nine years asserted service does not by itself prove nine years unpaid leave.

[2025] KEELRC 2477 (KLR) - 18 September 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/magongo-v-sherman-2025-keelrc-2477-klr

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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.