Submissions Separating Unfair Redundancy from Unproved Tribal Discrimination

Educational sample 164 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the 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 NAIROBI

CAUSE CIVIL SUIT OR APPLICATION NO [correct reference]

[CLAIMANT PLAINTIFF OR APPELLANT] v [RESPONDENT OR DEFENDANT]

WRITTEN SUBMISSIONS

1. The termination letter attributed the exit to staff reduction. The section 40 procedure therefore required examination independently of labels such as constructive dismissal. The employer’s witness admitted that the labour officer had not been notified.

2. Following a contractual one-month termination provision did not answer the statutory redundancy process. Nor did a discharge summary automatically establish that the required process occurred. Its wording and the circumstances of payment must be considered on the actual evidence.

3. The discrimination allegation is a separate question. Specific ethnic treatment and the supporting record must be identified. In the source decision no sufficient evidence supported the tribal discrimination declaration, notwithstanding the successful unfair-termination claim.

4. The certificate question is also distinct. The job title and workstation must reflect the true employment under section 51. A compliant certificate may be ordered without endorsing a discrimination allegation or requiring an employer to provide a recommendation.

5. The Claimant seeks relief confined to the proved issues. The source ordered a corrected certificate and two months of compensation; it did not establish that every disputed allegation was true. The order against two respondents depends on that case’s parties and must not be assumed in another dispute.

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

Use and evidence notes

Identify the issue, pleaded position, admitted evidence and bundle pages. Submissions do not introduce new facts or exhibits. Follow current directions on filing, length, authorities and service. Distinguish a requested amount from the actual award, a losing historical argument from the holding and a liability finding from proof of every damages head. Applicable rules: ELRC Procedure Rules 2024, amended by Legal Notice 78 of 2025; verify current court directions.

Supporting material schedule: [document date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach only genuine available records and mark missing records accurately.

Source and procedural limits

A human resource manager was appointed in April 2019 at KSh 120,000 monthly. In March 2020 the managing director terminated employment immediately, saying reduced staff made the role unwarranted. The parties disputed qualifications, business contraction and tribal discrimination. A discharge summary and payments were acknowledged. The certificate omitted the nature and usual place of employment. The employer admitted not notifying the labour officer.

The Court found procedural unfairness under section 40 and awarded two months, KSh 240,000, subject to statutory deductions, costs and interest from judgment against both respondents jointly and severally. It directed a proper certificate under section 51 showing job title and workstation. The tribal discrimination declaration failed for insufficient evidence. Alleged constructive dismissal did not remove the need to analyse the actual redundancy.

Employment Act sections 40, 45, 49 and 51 distinguish redundancy process, compensation and certificate contents. A service certificate is different from a recommendation. A managing director’s personal liability is not automatic: the source order against two respondents must not be generalized. Disclose any discharge and actual payments, the real employment relationship, and section 90 limitation.

[2026] KEELRC 1161 (KLR) — 30 April 2026. Original judgment: https://sheriahub.com/cases/ke/caselaw/irungu-v-tonde-another-2026-keelrc-1161-klr

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.