Employer Response to a Challenge Based on Notice and Consultation

Educational sample 153 | 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]

STATEMENT OF RESPONSE

1. The Respondent admits the one-year employment contract and the last monthly remuneration of KSh 319,000, subject to the produced contract and payroll. It admits issuing the two identified redundancy notices. It responds paragraph by paragraph to the claim at [references].

2. The Respondent’s historical position is that strategic changes removed the sole position in the department. It alleges discussions on 15 April and 6 May and notification to the labour office on 21 May. The exact supporting records are [identify available records]; no minutes may be invented.

3. The Respondent states that terminal dues were paid and a certificate issued, identifying the payment breakdown and certificate. These assertions require proof and do not, by themselves, answer the statutory notice and consultation objections.

4. The alleged discrimination is denied and its factual basis put in issue. The Respondent denies that a renewal clause guaranteed renewal or that the remaining contractual period automatically measures compensation. Section 49 factors should be addressed separately from liability.

5. The Respondent historically sought dismissal or, alternatively, a measured award crediting proved payments. This source defence failed on termination fairness. A fresh response must reconcile the notice-service dates and the actual operational reason instead of adopting the rejected explanation.

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

Answer the claim by numbered admission or denial and state the actual factual and legal grounds. Under ELRC rule 29, check the twenty-eight-day response period from service, any shorter urgent direction, and the accompanying witness and documentary evidence under rule 35. A historical defence marked unsuccessful is not approved advice. New affirmative relief or counterclaims require proper pleading. 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 business development manager began a renewable one-year contract in November 2023. His role and monthly salary changed to Head of Partnerships and KSh 319,000 in March 2024. Two notices, dated 6 and 21 May, were both received on 21 May; they proposed exits on 6 June and 31 May respectively. The employer asserted strategic change and earlier discussions. At trial its witness instead referred to a missing business licence. The employee denied consultation.

The Court found the reason unconvincing, the employee and labour-office notices shorter than a month, and consultations unproved. It declared termination unlawful, awarded KSh 638,000, being two months of exit salary subject to statutory deductions, costs and a certificate of service. The discrimination declaration failed for lack of evidence. Renewal was not guaranteed; neither six remaining months nor twelve months was automatically awarded.

Employment Act sections 40 and 45 govern redundancy justification and procedure; section 49 governs compensation and section 51 a certificate. A sole position does not remove notice and consultation requirements. Informal conversations and pay in lieu must not be treated as substitutes for the statutory redundancy notice. Current ELRC Rules 7, 29 and 35 govern claim, response and witnesses; check the 2025 amendments and case directions. Section 90 limitation must be assessed before a new filing.

[2026] KEELRC 405 (KLR) — 19 February 2026. Original judgment: https://sheriahub.com/cases/ke/caselaw/wabuge-v-transsnet-payments-limited-2026-keelrc-405-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.