

IN THE HIGH COURT FOR ZAMBIA
INDUSTRIAL RELATIONS DIVISION
HOLDEN AT LUSAKA

COMP/IRDLK/26/2017

BETWEEN:

IAN GERALD PHIRI

AND

JACK KAWINGA



COMPLAINANT

RESPONDENT

BEFORE: MR. JUSTICE M. K. CHISUNKA

For the Complainants: In Person.

For the Respondent: No Appearance.

J U D G M E N T

1. By Notice of Complaint filed on 17th January, 2017 the Complainant, an electrician, claims against the Respondent:
 - 1.1 Leave days
 - 1.2 Gratuity for 4 years
 - 1.3 Costs
 - 1.4 Any other benefits the Court may order.

2. The Complainant contended that these were terminal dues to him which were unpaid under the contracts under which he served during the periods 2012 to 2014 and 2014 to 2016 respectively.
3. On 26th January, 2017, the Respondent filed an Answer denying the Complainant's claims and contending that:
 - 3.1 the Complainant was being paid his dues as agreed under the specified contracts
 - 3.2 gratuity was not provided for under any of the contracts
 - 3.3 the Complainant was entitled to 27 days accumulated leave days amounting to ZMW 1,127.77 and items received deposit computed at ZMW 1,210.74.
4. When the matter came up for hearing, the Respondent was absent and upon being satisfied that service of the notice of hearing was effected on them as per Affidavit of Service filed by the Complainant I ruled I would hear the matter in their absence.
5. The Complainant gave evidence on oath.
6. He informed the Court that he would rely on the Notice of Complaint and all the documents filed in Court in support of his case.
7. According to his Affidavit evidence, the Complainant was first employed as an electrician on 1st March, 2012 as an

electrician on contract basis for two years. He served under a second contract from 24th February 2014, as a Site Agent, to 24th February, 2016 when the contract ended and that he was not paid his dues and was now claiming for them. The dues being claimed for are as outlined in the Notice of Complaint.

8. In his oral testimony in Court and in response to the questions from the Court for clarification he confirmed as follows:

8.1 **Leave Days**

8.1.1 His claim was for 27 day accumulated leave days.

He was, however, paid on 17th May, 2018 a sum of K5,494.27 as terminal benefits in which leave days were included and he was not claiming that any more.

8.1.2 **Gratuity for 4 years**

He was claiming for the period covering 2012 to February, 2016. He confirmed that he had received an amount of K2,345.76 forming part of the K5,494.27 received covering the period 2014 to 2016. He conceded that he had no basis to claim.

8.2 **Item Received Money**

He informed the Court that he was not maintaining this claim.

9. On the basis of the Complainant's testimony, I find that the Complainant's claims have no merit and it is hereby ordered that the complaint filed by the Complainant herein be and is hereby dismissed.

DELIVERED THISDAY OF AUGUST, 2018.

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HON. JUDGE M. K. CHISUNKA

