

IN THE HIGH COURT FOR ZAMBIA  
INDUSTRIAL RELATIONS DIVISION  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

COMP/IRCLK/205/2021

**BETWEEN:**

**BRADLEY SINYANGWE**

**COMPLAINANT**

**AND**

**YASIN INVESTMENTS LIMITED**

**RESPONDENT**

**Before: The Hon. Lady Justice Dr. W. Sithole Mwenda at Lusaka  
this 20<sup>th</sup> day of April, 2022.**

*For the Complainant: In Person*

*For the Respondent: Mr. Liywalii Liywalii, Administrative Officer,  
Yasin Investments Limited*

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## **JUDGEMENT**

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**Cases referred to:**

1. *Wilson Masauso Zulu v. Avondale Housing Project Limited* (1982) Z.R. 172 (S.C.).
2. *Albert Mupila v. Yu-Wei*, COMP/IRCLK/222/2021.
3. *Atlantic Bakery Limited v. Zesco Limited*, SCZ Selected Judgment No. 61 of 2018.
4. *Sarah Aliza Vekhnik v. Casa Dei Bambini Montessori Zambia Limited*, CAZ/Appeal No. 129/2019.

**Legislation referred to:**

1. Sections 22 (1), (2), (3) and (7), 72, 133 (1) and 138 of the *Employment Code Act*, No. 3 of 2019.
2. *The Minimum Wages and Conditions of Employment (Shop Workers) Order*, 2011, Statutory Instrument No. 1 of 2011 as amended by Statutory Instrument No. 70 of 2018.
3. Section 15 of the *Interpretation and General Provisions Act*, Chapter 2 of the *Laws of Zambia*.

## **1. Introduction**

- 1.1 In a Notice of Complaint filed on 21<sup>st</sup> April, 2021, the Complainant sought this Court's order for the Respondent to pay him underpayments of salary and overtime for four years; K15,000.00 for a boiler overhaul job which he did in December, 2016 with inflation factored in and any other costs and benefits the Court would deem fit.
- 1.2 The grounds on which the Complainant based his claims are that he was employed by the Respondent on 1<sup>st</sup> December, 2016 on a verbal contract for a specific task; and from 1<sup>st</sup> January, 2017 on a long-term yearly written contract as Boiler Operator. That, the Respondent refused to pay the Complainant for underpayments and promises made, leading the Complainant to resign due to frustration on 30<sup>th</sup> January, 2021.

## **2 Background/Complainant's case**

- 2.1 In the Affidavit filed in support of the Notice of Complaint, Bradley Sinyangwe, the Complainant herein, avowed that the Respondent employed him on a verbal contract for a specific task for the month of December, 2016 on the understanding that he would be paid K15,000.00 for overhauling the Respondent's boiler. According to the Complainant, he overhauled the boiler but was only paid K2,000.00 and when he queried the payment, the Respondent told him that he would pay him later.
- 2.2 The Respondent then employed him as a Boiler Operator on a written contract of employment for a period of one year,

namely, January, 2017 to December, 2017. On 14<sup>th</sup> February, 2017, the Complainant wrote a letter to the Respondent because it was deviating from the agreement. As evidence of this averment, the Complainant produced a letter of complaint as exhibit "BS 1".

2.3 The Complainant worked for the Respondent for four years but the Respondent failed to pay him underpayments on salary and overtime. The Respondent also failed to give him copies of the contracts they entered into. Further, the promise by the Respondent to upgrade the Complainant failed and the Complainant finally resigned on 30<sup>th</sup> January, 2021, as per exhibit marked "BS 2".

2.4 The Complainant brought the issue to the attention of the Labour Office and a meeting was arranged. In discussions with the Labour Officers, the Respondent's Manager agreed to settle the underpayments and overtime and to give the Complainant his executed contracts of employment, but in later discussions, the Respondent refused to pay the Complainant and give him his copies of executed contracts. A Labour Inspector then referred him to this Court for assistance as per exhibit marked "BS3". Consequently, the Complainant seeks this Court to order the Respondent to pay him as per the claims in paragraph 1.1 above.

### **3 Respondent's Answer**

3.1 In response to the Notice of Complaint, the Respondent filed an Answer on 14<sup>th</sup> June, 2021 in which it stated that the Complainant was employed as a Boiler Operator on 1<sup>st</sup> January, 2017 and was put on fixed-term renewable

contracts and his dues were settled yearly as the contract came to an end.

- 3.2 The Respondent asserted further, that at no time did the Complainant raise any issue of under payments during the tenure of his employment and he resigned on his own. That, at no time did the Complainant enter into an agreement of K15,000.00 for overhauling the boiler as that was within the scope of his duties. That, the Complainant signed the contract and never raised the claims he is raising now and even signed having receipt of the full and final settlement of all his dues as per exhibit "LL 02".
- 3.3 It was averred further, that the Respondent paid the Complainant all the leave days for the period he worked for the company before he resigned. The Respondent claimed that the Complainant did not give 30 days' notice of separation as he was required to do. The Respondent denied the claims made by the Complainant and sought this Court to dismiss the case for lack of merit.
- 3.4 In the Affidavit in Support of Answer sworn by one Liywalii Liywalii, the Administrative Officer in the Respondent's Company, which was filed together with the Answer, the Respondent denied the claims made by the Complainant and stated that the Complainant was employed as per the terms and conditions that were agreed upon between the parties and he continued to work for the Respondent until he resigned.
- 3.5 The Respondent exhibited as "LL01" a document showing payments of gratuity and leave pay to the Complainant for

the period January, 2020 to December, 2020. He further exhibited as "LL02" a copy of a letter addressed to Yasin Investments Limited, the Respondent herein, dated 31<sup>st</sup> December, 2020 headed "Full and Final Settlement", wherein Bradley Sinyangwe, the Complainant, acknowledged being employed by the Respondent from January, 2020 to December, 2020 and accepted a cash amount of K8,462.28 as full and final settlement of his dues.

#### **4 Complainant's reply**

- 4.1 The Complainant filed an Affidavit in Reply to Respondent's Answer on 3<sup>rd</sup> February, 2022, wherein he stated that he did not dispute that he was employed as a Boiler Operator from 1<sup>st</sup> January, 2017, but joined the company on 1<sup>st</sup> December, 2016 as stated in paragraph 4 of the Affidavit in Support of Notice of Complaint. That, he was put on a fixed-term contract from January, 2017, but in December, 2016, he worked under an oral contract for a specific task.
- 4.2 The Complainant stated, further, that contrary to the Respondent's assertion in the Affidavit in Support of Answer, he wrote a complaint letter to the Respondent and there were verbal complaints made to the Respondent on underpayments in the course of his employment. He reiterated that the K15,000.00 was for overhauling of the Boiler in 2016.
- 4.3 In further reply, the Complainant alleged that the Respondent fraudulently made him sign an illegal

exemption clause document on the pretext that he was signing for his 2020 gratuity. That, exhibit "LL2" contains two pages of the Complainant's Salary Account and Advance Book from 5<sup>th</sup> August, 2019 to 31<sup>st</sup> December, 2020 and is by no means a computation of benefits and underpayments. Further, that the Respondent was until January, 2021 without payslips and the Salary Book pages were used as a payroll to accept receipt of salary advance and monthly salary by signing.

4.4 With regard to the Respondent's claim that the Complainant did not give 30 days' notice at the time of separation, the Complainant stated that the Respondent did not indicate that there was an agreement made for the Complainant to opt out of contract if various issues discussed on 26<sup>th</sup> November, 2020 were not met. That, he resigned by declining to sign the 2021 contract and handing in his letter of resignation.

4.5 The Complainant claimed that underpayments were caused by predating contracts of employment and failure by the Respondent to adhere to Statutory Instrument No. 70 of 2018, namely, the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2018 and failure to adhere to contractual and statutory terms on overtime and paid public holidays payments. As evidence of his averment, the Complainant exhibited "BS1" and "BS2" as his computations for the boiler overhaul job and alleged wage underpayments, respectively.



## **5 Summary of Evidence**

- 5.1 Trial took place on 9<sup>th</sup> March, 2022. The Complainant testified on his own behalf. I shall refer to him as "CW". CW testified that sometime in November, 2016, he was approached by a director in the Respondent Company who said he wanted him to overhaul the Respondent's boiler. CW was given two options to choose from with regard to the job; either to service the boiler as a contractor or to service the boiler on an oral contract and after finishing the job and having the boiler certified by the Boiler Inspector, he would start working as a Boiler Operator with effect from January, 2017.
- 5.2 CW testified that he went for the second option and the parties agreed that CW would be paid K15,000.00 for the job. CW worked on the boiler and after completing the job, the Boiler Inspector inspected it and gave it a certificate for one year. However, the Respondent only paid him K2,000.00. After approaching Mr. Yasin (a director in the Respondent company), CW was told that he would be paid later because at that time the company was facing monetary constraints.
- 5.3 It was CW's evidence that in January, 2017 the cooking oil refinery started working, meaning the boiler started working too and due to insufficient labour CW started working in shifts of six hours. However, he was not being paid overtime in accordance with the provisions of the law. At the end of January, 2017, CW only received his salary, minus overtime. When he realised that he was not being

paid overtime in accordance with employment law, he wrote a letter to the Respondent, which he exhibited in the Affidavit in Support of Notice of Complaint as "BS1".

- 5.4 CW testified that around mid-2017, he approached Mr. Hussain, a director in the Respondent Company, and reminded him about the outstanding K15,000.00 but the latter shrugged it off and said they would pay him. CW testified further, that almost the same time (mid-2017), he signed his contract for 2017 which was predated to 1<sup>st</sup> January, 2017.
- 5.5 In the third quarter of 2019, CW approached two directors of the Respondent Company, namely, Mr. Yasin and Mr. Hussain, and asked them about the outstanding money. Mr. Yasin told him that he would be given a general increase in salary and that was done in mid-February, 2020.
- 5.6 It was CW's further testimony that in Mid-2020, he and a fellow boiler operator approached Mr. Yasin to complain about a number of issues, such as gratuity, predating of contracts without back pay, overtime, paid public holidays and executed contracts of employment which were not being given to employees. Mr. Yasin promised to look into all the issues except for gratuity which he promised to pay in the 2021 contracts.
- 5.7 According to CW, he wrote a letter of intent not to renew the 2020 contract but was persuaded by Mr. Yasin to stay on at the end of the contract. CW then signed a revised 2020 contract. Mr. Yasin further assured him that he was going to look into all the grievances which he had presented and



that if he was not happy in 2021, he had the right to opt out of the company.

5.8 On 31<sup>st</sup> December, 2020, Mr. Yasin called him to the Indian Staff Canteen and in the presence of other people told him that he had called him to get his 2020 gratuity but he had to sign a document indicating that he had gotten his 2020 gratuity before the same could be given to him. That, being busy at the time and seeing that the document said "payments for 2020", he signed the document, got paid his gratuity and left.

5.9 On 29<sup>th</sup> January, 2021, he was called to the Cashier's Office and the acting Cashier handed him his 2021 contract to sign. According to CW, he did not sign the contract as it did not contain what was agreed on with Mr. Yasin. CW decided to opt out of the contract and wrote a letter of resignation which he presented to the Respondent.

5.10 Under cross examination, CW said that he knew that previously there was no gratuity in the law and that the Employment Code Act, came into force on 9<sup>th</sup> May, 2019 and further, that there was a window period for contracts which were on-going to run for one year. He also testified that he did not know if there was a provision in his contract to the effect that the employer was obliged to increase the salary every year or every month because he did not have a copy of the contract.

5.11 Under further cross-examination, CW said he was not given copies of any of his contracts by the company. It was his evidence that he wrote a letter of complaint to the

Respondent and complained to the Respondent several times to no avail. However, he did not have proof of that before court. It was his evidence that the Employment Code specifically says that the onus of keeping information on employees lies on the employer and the contract must be given to the employee.

5.12 The sole witness for the Respondent was Mr. Liywalii Liywalii, the Respondent's Administrative Officer (RW). It was his evidence that the Complainant was the Respondent's employee from 1<sup>st</sup> January, 2017 on a fixed-term contract of twelve months, subject to renewal. He was a Boiler Operator. It was RW's evidence that every year the Complainant's contract was coming to an end and he was paid his dues.

5.13 RW testified that in February, 2021, the Complainant tendered his resignation as per exhibit "LL01" of the Affidavit in Support of Respondent's Answer. That, prior to the Complainant's resignation, the Respondent wanted to do stock taking to find out if there were any employees with issues which they wanted the company to address. The Complainant was one of the employees with issues and he signed a copy of the document marked exhibit "LL02" which was witnessed by his fellow workers. The document stated that the company was in good standing with the Complainant; that all his leave days and other outstanding payments were settled. That, the Respondent was thus shocked to receive a summons to say that there was a pending issue of a boiler that he worked on way before

2018. RW stated that at no time did the Respondent go into an agreement with the Complainant that he would repair the boiler and be paid K15,000.00. That, the issue of the boiler was within the scope of employment of the Complainant. Further, that the Respondent does not owe the Complainant any money as he acknowledged that all his dues, including his leave pay, were settled.

5.14 Under cross-examination, RW stated that he joined the Respondent Company in November, 2020. It was his evidence that he had come across predated contracts and what mattered on a contract was the date of commencement of the contract. He testified that he was aware that the Employment Code gives employers a period of one year in which to comply with the provisions of the Act and the Respondent complied with the provisions of the Act. RW denied the allegation that the Respondent was an expert at backdating contracts. He insisted that the document that the Complainant signed wherein he acknowledged having received all what was due to him was legal.

5.15 In re-examination, RW maintained that what matters on a contract is the actual date of commencement. Further, that within the contract period it is normal to adjust the salary or allowances upwards but not downwards.

## **6 The undisputed and disputed facts**

6.1 The undisputed facts of this case are that the Complainant was engaged to overhaul the Respondent's boiler in December, 2016. He did that successfully and on 1<sup>st</sup> January, 2017, entered into a long-term yearly written

contract with the Respondent as Boiler Operator. The long-term yearly contract was renewed in 2018, 2019 and 2020. The Complainant resigned from his position on 30<sup>th</sup> January, 2021.

- 6.2 The disputed facts are that while the Complainant alleges that the Respondent employed him on a verbal contract for a specific task for the month of December, 2016, for a consideration of K15,000.00, the Respondent states that the overhauling of the boiler by the Complainant was done as part of his employment as a Boiler Operator. Further, the Complainant alleges that the Respondent failed to pay him underpayments and overtime and also failed to give him copies of his contracts in accordance with the law. Furthermore, that the Respondent failed to upgrade him as it promised. On the other hand, the Respondent states that the Complainant's dues were settled yearly as the contracts came to an end and at no time did the Complainant raise any issue of underpayments during the tenure of his employment.

## **7 Issues for Determination**

- 7.1 Taking into account the aforesaid, the issues for determination in this case, in my view, are the following:
- (i) Whether or not the Complainant was employed by the Respondent on 1<sup>st</sup> December, 2016, on a verbal contract for a specific task;
  - (ii) Whether or not the Complainant is entitled to his claim of underpayments and overtime for a period of four years (from 2017 to 2021); and

- (iii) Whether or not the Complainant is entitled to K15,000.00 for the boiler overhaul job.

7.2 Whether or not the Complainant was employed by the Respondent on 1<sup>st</sup> December, 2016 on a verbal contract for a specific task.

7.2.1 As alluded to above, it is not in dispute that the Complainant overhauled the Respondent's boiler in December, 2016. What is in contention is whether or not the work on the boiler was done by the Complainant under a verbal contract for a specific task for the consideration of K15,000.00 or whether it was done as part of his employment as a Boiler Operator.

7.2.2 It was the Complainant's testimony that he overhauled the boiler in December, 2016 but was only paid K2,000.00 and when he queried the payment, the Respondent told him that he would pay him later. On the other hand, the Respondent's witness, RW, testified that there was no agreement for a specific task between the Complainant and the Respondent whereby the Complainant was to overhaul the boiler for K15,000.00 but that the Complainant did the job as part of his employment.

7.2.3 It is trite that he who alleges must prove. Therefore, the burden of proving the existence of the contract for a specific task lies on the Complainant. I am of the opinion that the Complainant has not discharged the burden of proof to the required standard, namely, on a balance of probabilities for the following reasons. Firstly, no evidence was adduced by the Complainant to prove the existence of the alleged verbal

contract for a specific task. Secondly, the Complainant produced as "BS1" in his Affidavit in Support of Notice of Complaint, a document entitled: 'Letter of Complaint' dated 14<sup>th</sup> February, 2017 addressed to the directors of the Respondent Company. In that letter the Complainant states *inter alia*, as follows,:

*"I write this letter to complain about the apparent deviation from my Contract of Service.*

*In November 2016, when you called me to negotiate on my employment, after laying me off for about a year, you made certain promises which you do not seem to honour now.*

*We agreed on an employment relationship after you had initially offered me two options: one off Contracting Agreement or a Contract of Service.*

*We agreed that I would start work on the first day of December, 2016, and would be expected to start servicing boilers, later help in servicing refinery, and finally work as a Boiler Operator...*

*I also kindly request that since you promised me I will work on an oral contract in December 2016 and would sign a written contract in January, 2017, if this condition be met even though delayed, so we can refer to such in times of ambiguity.* (Emphasis supplied by the Court)

7.2.4 In the letter above, the Complainant made it clear that he settled for an employment relationship with the Respondent after the Respondent offered him two options: one off Contracting Agreement or a Contract of Service. Therefore, I am left in no doubt that the Complainant was not engaged by the Respondent on 1<sup>st</sup> December, 2016 on contract for a specific task but was employed on an oral contract as an employee to overhaul the boiler and help service the



refinery. Thereafter, the Complainant was employed as a Boiler Operator on a one year written contract of employment on 1<sup>st</sup> January, 2017.

7.3 Whether or not the Complainant is entitled to his claim of underpayments and overtime

7.3.1 Two of the reliefs the Complainant is seeking in his Notice of Complaint are underpayments of salary and overtime worked for four years.

7.3.2 As indicated earlier, he who alleges must prove. In the case of *Wilson Masauso Zulu v. Avondale Housing Project Limited*<sup>1</sup>, Ngulube DCJ (as he was then) stated at page 175 of the judgment that:

*"...I think it is generally accepted that where a plaintiff alleges that he has been wrongfully or unfairly dismissed, as indeed any other case where he makes any allegations, it is generally for him to prove those allegations. A plaintiff who failed to prove his case cannot be entitled to judgment, whatever may be said of the opponent's case."*

7.3.3 Thus, the onus to prove that the Respondent owes him underpayments of salary and overtime for the period that he worked for the Respondent rests on the Complainant. However, the Complainant testified that he was not availed even a single contract by the Respondent in the four years he worked for the company under four contracts. As I indicated in my earlier judgment in *Albert Mupila v. Yu-Wei*<sup>2</sup>, this clearly undesirable behaviour exhibited by some employers of denying their employees copies of their contracts of employment is becoming common. The present case is another example of this rather unfortunate development. Once again, I beseech employers to take

heed that Section 22 (1) of the Employment Code Act, 2019, requires that every contract for a period of six months or over must be in writing. Further, in subsection (2) of the section, an employer is required to read and explain the terms of the contract of employment to the employee who is required to enter the contract voluntarily and full of understanding of the terms of that contract. An employee who consents to entering into a contract of employment may indicate consent by signing the contract or affixing on the contract, a thumb or finger print in the presence of a person other than the employer (subsection (3)).

7.3.4 In addition, section 72 of the Employment Code Act requires an employer to explain to the employee the rate of wages and conditions relating to the payment of wages before commencement of the employment or when changes in the nature of the employment take place. It can be deduced from the provisions of Section 22 and 72 of the Employment Code above, that an employer is under obligation to provide his employee with a copy of the employment contract after reading and explaining the terms of the contract and the conditions relating to the payment of his wages for his record, otherwise it would not make any sense to make an employee append his signature or thumb print to a contract, which is a document that spells out the rights and duties of the parties, and then deny him a copy.

7.3.5 It is therefore, unacceptable for employers to withhold from their employees contracts of employment which constitute evidence of their consent to enter into binding obligations

with their employer. It is time such employers were subjected to administrative penalties as provided in Section 22 (7) of the Employment Code to deter other employers or would-be employers from doing the same to their employees. The Labour Commissioner has been empowered to impose the administrative penalties prescribed in Section 133 (1) of the Employment Code Act and is thus implored to do so against erring employers.

7.3.6 I strongly condemn the Respondent herein for withholding the Complainant's contracts of employment from him and take this opportunity to urge the Labour Commissioner and his team to carry out sensitisation campaigns to educate employers about their duties and employees about their entitlements, under the Employment Act. I encourage employees to report erring employers to the Labour Commissioner if this problem is to be addressed.

7.3.7 In the absence of a contract of employment, this Court is left with no choice but to accept the employee's version of his conditions of service, if reasonable, unless disproved by the employer. In *casu*, the Complainant has claimed that the Respondent owes him salary underpayments and overtime worked for. He has also claimed that he signed a contract for 2017 mid-year and the same was predated to January, 2017. Further, that the Respondent was a master of predating contracts which caused the underpayments. However, he has not adduced any evidence to support his claims in this regard. It is noteworthy that in his written submissions filed in Court on 4<sup>th</sup> April, 2022, the

Complainant submitted that in all the time he worked for the Respondent, he was only given one pay slip by the Respondent and that was for January, 2021. Regrettably, the Complainant did not even tender the single payslip in evidence; therefore, the Court has not had sight of any evidence of the Complainant's entitlements. For the claim of underpayments the Complainant should at least have tendered in evidence the one pay slip he has to enable the Court ascertain the extent of the underpayments. Similarly, the Complainant should have tendered in evidence, proof of the overtime he alleged is due to him.

7.3.8 The above notwithstanding, the Complainant testified that he was employed as Boiler Operator. A Boiler Operator is a protected worker under the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011, Statutory Instrument No. 1 of 2011 as amended by Statutory Instrument No. 70 of 2018. Since the Complainant was not part of management and there is no evidence that he was a member of any union, it is in order to conclude that he was a protected worker under the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 as amended by Statutory Instrument No. 70 of 2018.

7.3.9 For those who may wonder how the Ministerial Orders promulgated under the repealed Minimum Wages and Conditions of Employment Act, 1982, can still be applicable after the repeal of the primary legislation by Section 138 of the Employment Code Act, No. 3 of 2019, the statutory instruments still exist as they have not been repealed by

Complainant submitted that in all the time he worked for the Respondent, he was only given one pay slip by the Respondent and that was for January, 2021. Regrettably, the Complainant did not even tender the single payslip in evidence; therefore, the Court has not had sight of any evidence of the Complainant's entitlements. For the claim of underpayments the Complainant should at least have tendered in evidence the one pay slip he has to enable the Court ascertain the extent of the underpayments. Similarly, the Complainant should have tendered in evidence, proof of the overtime he alleged is due to him.

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Support of Respondent's Answer acknowledging that the payment he was given on 31<sup>st</sup> December, 2020 for leave pay and gratuity totaling K8, 462. 28 was a full and final payment for the period served. I am of the view that the signing of exhibit "LL02" by the Complainant does not prevent him from being entitled to the salary underpayments of K115.97 from the date Statutory Instrument No. 70 of 2018 came into effect, namely, 7<sup>th</sup> September, 2018 up to 30<sup>th</sup> January, 2021, being the Complainant's last working day. My view is based on the fact that parties cannot contract outside a statute and provisions in a contract which are in conflict with the law are void, as per the decision of the Court of Appeal in *Sarah Aliza Vekhnik v. Casa Dei Bambini Montessori Zambia Limited*<sup>1</sup>. Therefore, by virtue of the fact that the Complainant was a protected worker who was covered by the provisions Statutory Instrument No. 70 of 2018, he is entitled to salary underpayments notwithstanding that he signed exhibit "LL02" in the Respondent's Affidavit in Support of Respondent's Answer. In view of the aforestated, I hold that the Complainant is entitled to his claim for underpayments of salary.

7.3.13 With regard to the claim for overtime worked for a period of four years, whereas the Complainant as a protected worker is entitled to overtime, the Complainant has not provided any proof that he was working overtime and thus, entitled to payment for the same. It should be noted that the Shop Workers Order also provides for payment of housing



allowance, transport allowance and lunch allowance, amongst others, to employees who are covered by the Order. However, without any pay slip which would provide a breakdown of the Complainant's earnings; I am unable to determine whether or not the Complainant was being paid the allowances mentioned above. Thus, as a court of substantial justice for both parties, it would be unjust in the circumstances to order payments of the allowances. Therefore, the claim for overtime has failed and is dismissed accordingly.

7.3.14 In view of the paucity of evidence adduced by the Complainant in this matter, a short discourse on the function of the notice of complainant and accompanying affidavit is in order. The notice of complainant is there to define the issues of fact and law to be decided and to give the other party notice of the case they have to meet based on the evidence presented in the affidavit in support. The notice of complaint provides a brief summary of the party's case from which the nature of the claim may be easily apprehended by the respondent who will then be able to respond adequately to the claims in the notice of complaint. At the end of the trial, the court will weigh all the evidence on record to reach a reasoned decision. The above underscores the importance of adducing all the evidence a party will rely on in the affidavit in support of complaint or answer. Realising the importance of educating unrepresented litigants on the documents they must file when commencing their cases, the Industrial Relations

Division has introduced a checklist for registry staff which is proving helpful in providing guidance to unrepresented litigants as they file their documents in court.

7.4 Whether or not the Complainant is entitled to K15,000.00 for the boiler overhaul job

7.4.1 In view of my findings in paragraph 7.2.3 above, I find that the Complainant is not entitled to the sum of K15,000.00 for the boiler overhaul job.

**8 Conclusion and Orders**

8.1 It is clear from the above, that the only claim by the Complainant that has succeeded is the claim for underpayments of salary. Therefore, I enter Judgment for the Complainant on the claim for underpayments, being K115.97 per month from the date Statutory Instrument No. 70 of 2018 came into effect, namely, 7<sup>th</sup> September, 2018 up to 30<sup>th</sup> January, 2021.

8.2 The amount due shall bear interest at short-term bank deposit rate from the date of filing of the complaint until Judgment. Thereafter, interest shall be at lending bank rate as determined by the Bank of Zambia until payment.

8.3 Each party to bear own costs.

8.4 Leave to appeal is denied.

**Delivered at Lusaka this 20<sup>th</sup> day of April, 2022.**

  
**DR. W. SITHOLE MWENDA**  
**JUDGE**

