

**THE REPUBLIC OF UGANDA  
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA  
LABOUR DISPUTE APPEAL NO. 044 OF 2018  
(ARISING FROM KCCA/LC/72/2017)**

**DDEMBELYO TELECOM LTD.....CLAIMANT**

**VERSUS**

**KANYANGE DORIS.....RESPONDENT**

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Tumusiime Mugisha

**PANELISTS**

1. Ms. Adrine Namara
2. Ms. Susan Nabirye
3. Mr. Michael Matovu

**RULING**

This ruling arises from a preliminary objection raised by Mr. Ayebare for the appellant. The respondent was represented by M/s. Nansukusa. Originally the matter had been filed before the Labour Officer who decided in favour of the respondent.

The appellant did not file an appeal against the decision and therefore the respondent filed an application for execution of the Labour Officers Award. On being served with a Notice to show cause why execution should not issue the appellant filed an application for stay of execution and during the proceedings of the application before the Registrar of this court, the respondent contended that there was no appeal. Subsequently a notice of appeal was filed on 15/10/2018.

In the submission of counsel for the respondent, this appeal was filed out of time, offending **Section 94(1)(2) of the Employment Act** and regulation **45(1) of the Employment regulations** and it should be dismissed.

In reply counsel for the appellant admitted that the matter was filed out of the prescribed time but pleaded that the appeal was filed by the appellant personally. She contended that an application for extension of time within which to appeal was already filed by counsel. She contended that since the appellant was not represented and had no knowledge of procedures of court this court should overrule the preliminary objection.

**Section 94 of the employment Act** provides that appeals from the Labour Officer lie to this court. **Regulation 45(1) of the Employment Regulations 2011** provides

**" A person aggrieved by the decision of the labour officer may within 30 days give a notice of appeal to the Industrial Court in the form prescribed in the 17<sup>th</sup> schedule."**

The Labour officer made his decision on 7/06/2018. This appeal was filed on 15/10/2018. The position that time limits set by statute are matters of law and not mere technicalities and must be complied with was ably applied in the case of **UGANDA REVENUE AUTHORITY VS UGANDA CONSOLIDATED PROPERTIES LIMITED CA 31/2000 (Court of Appeal)**. Counsel for the respondent conceded that the appeal was filed out of the statutory period. It seems to us that the appellant was awakened from its sleeping slumber by the application to execute the Labour Officer's award but it kept dozing even after the non existence of the appeal was brought to its attention.

The position of the law is that once time has elapsed for lodging an appeal and the aggrieved party is still interested in lodging the appeal, he/she is required to file an application before a competent court to be allowed to file the appeal out of time. It is not acceptable for the appellant to file and argue the appeal before being granted the order to do so.

Counsel for the respondent was therefore out of order to argue that the appellant had already filed an application for extension of time with which to file the appeal while at the same time pleading that the appeal was filed by the appellant personally and therefore this court should allow it. Counsel should have had the courage to withdraw the appeal and argue the application to be allowed to file the appeal out of time. The appeal is incompetent having been filed out of time and it is hereby struck out. The

appellant should have realized this and not wasted both courts time and the respondent's time.

Consequently the preliminary objection is upheld with costs to the respondent.

**Signed by:**

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Tumusiime Mugisha

**Panelists:**

1. Ms. AdrineNamara
2. Ms. Susan Nabirye
3. Mr. Michael Matovu

Dated: 14/6/2019