

## Media Summary: *Zambia Electronic Clearing House Ltd v James Kalengo*

Date of Judgment: 1 November 2022 | Appeal from the High Court (Industrial Relations Division)

Neutral citation: [2022] ZMCA 70 | <https://zambialii.org/zm/judgment/court-appeal-zambia/2022/70>

The appellant offered the respondent a two year fixed term contract of employment as Chief Executive and National Financial Switch Project Manager. At the time of the offer of employment, the respondent was working in Rwanda on a similar project and by reason of the offer of employment would return to Zambia. The respondent returned to Zambia and took up the offer. At the end of the two-year contract, the project of the National Switch was not complete. The respondent by a letter to the Board Chairperson of the appellant requested for renewal of his contract of employment. By a subsequent letter, the respondent was informed of the non-renewal of his contract of employment. The respondent was unsatisfied with the non-renewal of his contract and filed a Notice of Complaint before the Industrial Relations Court (IRC). The main issue before the IRC related to damages for loss of legitimate expectation of employment.

The IRC considered the facts leading to the respondent being offered the contract of employment by the appellant found that the appellant handpicked the respondent for the job and that the respondent believed that he was the only one capable of managing the scope of works involved in the project. The IRC concluded that the respondent's legitimate expectation of renewal of contract of employment was breached and ordered that the respondent be paid damages for loss of expectation and damages equivalent to twelve months' basic salary.

The appellant appealed the decision of the IRC to the Court of Appeal. The Court of Appeal found that the IRC contradicted itself firstly by holding that the claim of loss of legitimate expectation of renewal of employment had no basis and secondly by finding that the respondent's legitimate expectation of renewal of employment was justified and awarded the respondent damages. The Court of the Appeal was guided by the Supreme Court in the case of Communications Authority v Vodacom which established that legitimate expectation arises where a decision maker such as an employer makes representation or makes a person believe that they will receive a benefit or advantage and that a hearing will take place before the decision is made. In such a situation, the employer or the decision maker will be stopped from going back on his well-founded representation.

The Court of Appeal held that the principle of legitimate expectation was not applicable in this case because the respondent had a fixed term contract which came to an end by expiration of time and with no assurances given by the appellant which indicated a commitment to renew the respondent's employment contract for a further term. That the respondent relied on the fact that he was brought in from Rwanda on a similar project and that he labored under the belief that he was the only one capable of managing the National Financial Switch project within the contract period did not represent the circumstances under which legitimate expectation may arise. It was further held that the respondent had served his full term of contract and was discharged upon the contract period expiring. The Court

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of Appeal concluded that parties to a contract must honour their obligations under that contract (sanctity of contract) unless there is more. In this case the Court of Appeal found none and set aside the decision of the IRC.

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