

DOES A SUCCESSFUL PARTY GET AWARDED COSTS IN THE INDUSTRIAL COURT OF UGANDA?

In ordinary civil litigation, the golden rule is that *costs follow the event* under **Section 27(2)** of the **Civil Procedure Act Cap.282**. Unsuccessful party must pay legal expenses incurred by the successful party, unless the court orders otherwise for a good reason. Relatively, the Industrial Court is fully empowered to award costs. **Section 27(1)** of the **Civil Procedure Act** grants courts the discretionary power to allocate costs, and **Section 8(3)(d)** of the **Labour Disputes (Arbitration and Settlement) Act Cap. 227** vests the Industrial Court with High Court powers to make cost orders as it deems fit.

However, in practice, the Industrial Court deliberately departs from this rule. The standard position in the Industrial Court is that **each party bears its own costs, regardless of who wins**.

The Supreme Court held in *Kwizera v Attorney General Constitutional Appeal 1 of 2008 [2017] UGSC 3* that any court departing from the general rule of awarding costs must give clear reasons on the record. The Industrial Court meets this requirement by prioritizing equitable access to labour justice.

As highlighted in recent decisions like *Turinayo Amos v Board of Governors Seseme Girls Secondary School (Lbr Ref No. 07/2021)* and *Joseph Kalule v Deutsche (Lbr Ref No. 109/2020)*, this departure is rooted in the unique dynamics of employment relations:

- Employers generally hold the power of capital and can comfortably afford litigation. Employees, conversely, are usually in financial peril after losing a job.
- The Industrial Court was established to be an accessible, expeditious, and less exacting forum. Slapping an unsuccessful, self-representing employee with heavy legal costs would condemn them to destitution.
- The Court fears that using costs as a penalty might discourage parties from asserting plausible rights or defences.

When does Industrial Court award costs to a successful party

The trigger is always **misconduct** in the following exceptional circumstances:

- Bringing a claim or defense purely to harass the other party, with absolutely no basis in law or fact, in an abuse of the judicial process.

- Acting with severe malice or carelessness before the lawsuit is even filed.
- Disrespecting the court process, intentionally delaying proceedings, and causing unnecessary expense to the opposing side.

The Takeaway

Winning your case in the Industrial Court does not guarantee a refund on your legal fees. Unless you can conclusively prove that the opposing party engaged in egregious misconduct, abused the court process, or filed a purely vexatious claim, you must be prepared to bear your own litigation costs.