**Dave v Business Machines Ltd**

[1974] 1 EA 68 (CAN)

**Division:** Court of Appeal at Nairobi

**Date of judgment:** 14 March 1974

**Case Number:** 45/1973 (24/74)

**Before:** Sir William Duffus P, Law Ag V-P and Musoke JA

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*[1] Practice and Procedure – Attendance – Defendant not attending – Plaintiff must prove case.*

**Editor’s Summary**

The appellant did not attend the hearing of the case brought against him by the appellant. The judge gave

judgment relying on letters which were handed to him but not proved.

On appeal

**Held –** where a defence has been filed but the defendant does not attend, the plaintiff must prove his case

by evidence.

Appeal allowed.

**Case referred to Judgment:**

(1) *Eksteen v. Kutosi* (1951), 24 (2) K.L.R. 90.