THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

In the name of His Highness Sheikh Mohammed Bin Rashid Al Maktoum,

Ruler of Dubai

IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS

BEFORE SCT JUDGE NASSIR AL NASSER

BETWEEN

JUGNIG

Claimant

and

JANGUR GROUP LLC

Defendant

Hearing: **3 July 2019**

Judgment: **3 July 2019**

JUDGMENT OF SCT JUDGE NASSIR AL NASSER

UPON hearing the Claimant at the hearing;

AND UPON the Defendant failing to attend the hearing although served notice of the hearing date;

AND PURSUANT TO Rule 53.61 of the DIFC Courts, which states that, if a Defendant does not attend the hearing and the Claimant does attend the hearing, the SCT may decide the claim on the basis of the evidence of the Claimant alone; and

AND UPON reading the submissions and evidence filed and recorded on the Court file.

IT IS HEREBY ORDERED THAT:

1. The Defendant shall pay the Claimant the sum of AED 16,128.15 which is the remainder of the Final Settlement.
2. The Defendant shall pay the Claimant penalties under Article 18 of the DIFC Employment Law in the sum of AED 22,882.19 for the period of 9 January 2019 to 1 May 2019.
3. The penalties under Article 18 of the DIFC Employment Law shall continue to accrue at a daily rate of AED 190.68 from 2 May 2019 until the date of full payment.
4. The Defendant shall pay the Claimant the Court fee in the sum of AED 786.56.

Issued by:

Nassir Al Nasser

SCT Judge

Date of issue: 3 July 2019

At: 3pm

THE REASONS

The Parties

1. The Claimant is Mr. Jugnig (herein "the Claimant"), an individual filing a claim against the Defendant regarding his alleged employment at the Defendant company.

2. The Defendant is Jangur Group LLC (herein "the Defendant"), a company registered in the DIFC located at DIFC, Dubai.

Background and the Preceding History

3. The underlying dispute arises over the employment of the Claimant by the Defendant pursuant to an Employment Contract dated 22 November 2009 with an effective date of 7 February 2010.

4. On 10 April 2018, the Claimant was terminated by the Defendant and his last working day was on 10 July 2018.

5. On 1 May 2019, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming his final settlement and penalties under Article 18 of the DIFC Employment Law from 9 January 2019 up to 1 May 2019 (the day of filing the claim) in the sum of AED 39,328.

6. On 22 May 2019, the Defendant filed an Acknowledgment of service with intention to defend part of the claim, however, the Defendant failed to file a defence.

7. A Consultation with SCT Judge Maha Al Mehairi was scheduled on both 29 May 2019 and 11 June 2019 but the parties were unable to reach a settlement.

8. A hearing was scheduled on 3 July 2019, in which the Claimant attended, and the Defendant was absent although he was notified of the date of the hearing.

9. Rule 53.61 of the DIFC Courts states that, if a Defendant does not attend the hearing and the Claimant does attend the hearing, the SCT may decide the claim on the basis of the evidence of the Claimant alone.

The Claim

10. The Claimant's case is that he was employed with the Defendant from 7 February 2010 and terminated on 10 April 2018 with his last working day on 10 July 2018.

11. The Claimant alleges that the Defendant failed to pay his final settlement dues, although he was provided with final settlement breakdown in the sum of AED 26,128.15.

12. The Claimant agrees that the amount in the Final Settlement document provided to him is correct and he also admits that during September 2018, the Defendant only paid him the sum of AED 10,000 from the Final Settlement and the remaining balance is AED 16,128.15.

13. The Claimant alleges that he is entitled to penalties under Article 18 of the DIFC Employment Law which stipulates the following:

> "(1) an employer shall pay all wages and any other amount owing to an employee within fourteen (14) days after the employer or employee terminates the employment.
>
> (2) if an employer fails to pay wages or any other amount owing to an employee in accordance with Article 18(1), the employer shall pay the employee a penalty equivalent to the last daily wage for each day the employer is in arrears."

14. However, the Claimant calculated the penalties under Article 18 of the DIFC Employment Law from 9 January 2019 to the date he filed the claim in the sum of AED 23,200, alleging that his salary was in the sum of AED 5,800 and his daily wage was AED 193.33.

The Defence

15. The Defendant failed to file a defence and to attend the hearing. Therefore, pursuant to Rule 53.61 of the DIFC Courts, if a Defendant does not attend the hearing and the Claimant does attend the hearing, the SCT may decide the claim on the basis of the evidence of the Claimant alone.

Discussion

16. This dispute is governed by DIFC Law No. 4 of 2005, as amended by DIFC Law No. 3 of 2012 (the "DIFC Employment Law") in conjunction with the relevant Employment Contract.

17. The Claimant filed a claim claiming the sum of AED 39,328 which consists of the remaining balance of the Final Settlement in the sum of AED 16,128.15 and penalties under Article 18 of the DIFC Employment Law in the sum of 23,200.

18. In relation to the remining balance of the final settlement in the sum of 16,128.15, the Claimant provided the Final Settlement document provided to him by the Claimant and admitted that he received the sum of AED 10,000 on September 2018 and the remaining balance due is the sum of AED 16,128.15.

19. In the absence of the Defendant's defence, I find that the Claimant is entitled to the remaining sum of the Final Settlement.

20. In relation to Article 18 of the DIFC Employment Law, the Claimant claimed penalties from 9 January 2019 up to the date he filed the claim in the sum of AED 23,200. However, as per Article 18 of the DIFC Employment Law, the penalties shall continue to accrue until the date of full payment.

21. The Claimant calculated the penalties as per the below:

His monthly salary AED 5,800/30= 193.33 x 120 days = 23,200.

22. However, I will calculate it as per the practice in the DIFC Courts:

AED 5,800 x 12 months / 365 days = 190.68 x 120 days = 22,882.19.

23. Therefore, I find that the Claimant is entitled to penalties under Article 18 of the DIFC Employment Law as he was terminated on 10 April 2018 and his last working day was on 10 July 2018 and the Defendant had 14 days from his last working day to settle the Claimant's dues.

24. However, pursuant to the Claim, the Claimant claimed penalties under Article 18 of the DIFC Employment Law only from 9 January 2019 up to the date he filed the claim, being 1 May 2019 but it shall continue to accrue until the date of full payment.

Conclusion

25. In light of the aforementioned, I find that the Defendant shall pay the Claimant the remaining sum of the Final Settlement in the sum of AED 16,128.15. I also find that the Claimant is entitled to penalties under Article 18 of the DIFC Employment Law in the sum of 22,882.19 from 9 January 2019 to 1 May 2019 pursuant to the calculation of the daily wage mentioned above.

26. The penalties shall continue to accrue pursuant to the daily wage of AED 190.68 from 2 May 2019 until the date of full payment.

27. The Defendant shall also pay the Claimant the Court fee in the sum of AED 786.56



Issued by:

Nassir Al Nasser

SCT Judge

Date of Issue: 3 July 2019

At: 3pm