Claim No. SCT 134/2020

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 MAHA AL MEHAIRI

BETWEEN

LORENZO

Claimant

and

LELITH HOUSE HOSPITALITY, DUBAI DESIGN DISTRICT - LACHLAN RESTAURANT LTD

Defendant

Hearing

: 17 May 2020

Judgment

: 18 May 2020

JUDGMENT OF SCT JUDGE MAHA ALMEHAIRI

UPON this Claim being filed on 20 April 2020

AND UPON the Claim being Amended on 29 April 2020

AND UPON the Defendant filing an Acknowledgment of Service indicating its intention to contest the jurisdiction of the DIFC Courts dated 5 May 2020

AND UPON a Jurisdiction Hearing having been held before SCT Judge Maha Al Mehairi on 17 May 2020, with the Claimant and the Defendant's representative in attendance

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

IT IS HEREBY ORDERED THAT:

1. The Defendant's application to contest jurisdiction is denied.

2. The DIFC Courts have jurisdiction to hear and determine this claim.

3. Each party shall bear their own costs.

Issued by:

Maha Al Mehairi

SCT Judge

Date of issue: 18 May 2020

At: 2pm

THE REASONS

The Parties

1. The Claimant is Lorenzo (the "Claimant"), an individual filing a claim regarding his employment at the Defendant company.

2. The Defendant is Lelith House Hospitality, Dubai Design District - Lachlan Restaurant Ltd (the "Defendant"), a restaurant located in the DIFC, Dubai, UAE.

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 10 February 2019 (the "Employment Contract").

4. On 1 April 2020, the Defendant terminated the Claimant's employment due to the global crisis of Covid-19. The Claimant was terminated without notice nor payment in lieu of notice, in addition to other deductions without the Claimant's approval.

5. On 20 April 2020, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming AED 12,000 which includes 1-month notice period, unauthorised deductions for the month of March and other allowances.

6. The Defendant responded on to the Amended Claim Form on 5 May 2020 indicating its intent to contest the jurisdiction of the DIFC Courts. On 17 May 2020, I heard the parties' arguments at a Hearing.

The Jurisdiction Application

7. In their submissions the Defendant submits that within the signed Employment Contract there is reference to `Dubai Law' instead of `DIFC Laws', as set out below:

> "Contract type:
> Unlimited contract, gratuity to be paid after completion of one year and as per UAE laws."
> "Termination of employment: The company reserves the right to dismiss without notice or payment in lieu of notice in accordance with provisions of the UAE labour law."

8. The Defendant argues that, it is clear from the contents of the Employment Contract that the parties intended for UAE labour law to govern the contract, and not any other law. Moreover, the Defendant argues that the Contract makes no reference to the jurisdiction of the DIFC courts, nor to the application of the DIFC Employment law.

9. In reply, the Claimant submits that he is a DIFC employee with a DIFC visa and the laws of the DIFC should apply over this case. In addition, the Claimant's termination letter provided by the Defendant states that "Gratuity will be paid as per DIFC Employment law if applicable."

Discussion

10. The jurisdiction of the DIFC Courts is determined by Article 5(A) of the judicial authority law, Dubai Law No. 12 of 2004, as amended, (the "JAL") which provides a number of limited gateways through which the DIFC Courts have jurisdiction over a claim, namely:

"(a) Civil or commercial claims and actions to which the DIFC or any DIFC Body, DIFC Establishment or Licensed DIFC Establishment is a party;

(b) Civil or commercial claims and actions arising out of or relating to a contract or promised contract, whether partly or wholly concluded, finalised or performed within DIFC or will be performed or is supposed to be performed within DIFC pursuant to express or implied terms stipulated in the contract;

(c) Civil or commercial claims and actions arising out of or relating to any incident or transaction which has been wholly or partly performed within DIFC and is related to DIFC activities; . . .

(e) Any claim or action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations. . . .

(2) civil or commercial claims or actions where the parties agree in writing to file such claim or action with [the DIFC Courts] whether before or after the dispute arises, provided that such agreement is made pursuant to specific, clear and express provisions."