Claim No. SCT 226/2020 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 LAKSHA Claimant and LAILESH'S RESTAURANT AND LOUNGE LLC DUBAI/ LEKH CONSULTING GROUP Defendant Hearing :

Claim No. SCT 226/2020

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

LAKSHA

Claimant

and

LAILESH'S RESTAURANT AND LOUNGE LLC DUBAI/ LEKH CONSULTING GROUP

Defendant

Hearing **: 24 August 2020**
Judgment **: 6 September 2020**

JUDGMENT OF SCT JUDGE MAHA AL MEHAIRI

UPON this Claim being filed on 13 July 2020

AND UPON a Consultation being held before SCT Judge Delvin Sumo on 26 July 2020

AND UPON the parties failing to reach a settlement at the Consultation

AND UPON a hearing having been listed before SCT Judge Maha Al Mehairi on 24 August 2020, with the Claimant and the Defendant's representative in attendance

AND UPON reviewing all documents and evidence submitted on the Court file

IT IS HEREBY ORDERED THAT:

1. The Claimant's Claim is dismissed.

2. The Defendant shall pay the Claimant the Court fee in the sum of AED 367.50

Issued by:
Ayesha Bin Kalban
SCT Judge and Deputy Registrar
Date of Issue: 6 September 2020
At: 2pm

THE REASONS

The Parties

1. The Claimant is Laksha (the "Claimant"), an employee working for the Defendant.

2. The Defendant is Lailesh's Restaurant and lounge LLC Dubai - Lekh Consulting Group (the "Defendant"), a restaurant located in the DIFC, Dubai, UAE.

The Claim

3. The underlying dispute arises over the employment of the Claimant by the Defendant pursuant to an Employment Contract dated 17 January 2017 (the "Employment Contract"). The Claimant was working in the position of `Waitress' for the Defendant with a monthly salary of AED 1,600. The Claimant was promoted in 19 August 2019, and was provided a salary of AED 4,000.

4. On 22 March 2020, the Defendant gave notice to its employees, including the Claimant, that they would be placed on unpaid leave until further notice due to the COVID19 pandemic.

5. On 13 July 2020, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming the sum of AED 18,000, which includes payment for her salary, housing and food allowance, and pending tips.

6. The Defendant filed its response on 26 July 2020 stating that it had not made any payments of salary between with the months of March to June due to the fact that, pursuant to the directions made by the relevant authorities, the Defendant ceased its business on 22 March 2020 as part of the UAE's preventative measures against the COVID-19 pandemic. The Defendant submits that its actions were carried out in accordance with the DIFC Presential Directive No. 4 of 2020 (the "Directive"), and confirms that a memo was sent to all of the employees notifying them of closure of the Defendant's premises and confirming that all employees would be placed on unpaid leave.

7. The parties met for a Consultation with SCT Judge Delvin Sumo on 26 July 2020 but were unable to reach a settlement. On 27 July 2020, the Defendant sent a letter to the Claimant notifying her that her position has been made redundant.

8. In line with the rules and procedures of the SCT, this matter was referred to me for determination, pursuant to a Hearing held on 24 August 2020. The Claimant informed me in the hearing that the Defendant settled her claims for pending salaries, food allowance and tips and she is only pursuing her claim for housing allowance in the amount of AED 4,500.

Discussion

9. This dispute is governed by DIFC Employment Law No. 2 of 2019 (the "DIFC Employment Law") in conjunction with the relevant Employment Contract.

10. I shall only deal with the Claimant's claim for housing allowance as the remainder of the Claimant's claims have been settled by the Defendant prior to the hearing.

11. This is a very straight forward matter. The Directive in respect of COVID-19 emergency measures states:

> "5. Rationale
>
> The President has the authority under the Founding Law to perform any action he considers necessary to ensure the proper management of the DIFC.
>
> 6. Emergency Employment Measures
>
> (1) An Employer may only during the Emergency Period implement any one (1) or more of the following Emergency Measures in respect of some or all of their Employees without such Employees' consent:
>
> (a) impose reduced working hours;
>
> (b) impose Vacation Leave
>
> (c) impose leave without pay;
>
> (d) reduce Remuneration on a temporary basis;
>
> (e) restrict workplace access; and
>
> (f) subject to Section 12 below, impose Remote Working conditions and requirements, inclusive of (but not limited to) imposing means of measuring Employee engagement and productivity during Remote Working.
>
> **9. Visas and Permits of Terminated Employees**
>
> (1) Employers may during the Emergency Period defer the cancellation of the residency visas and/or sponsorship of Terminated Employees, provided that:
>
> (a) the Employer shall continue to provide basic medical insurance for such Terminated Employees; and
>
> (b) where the Employer is in the retail, service or hospitality industry and the Terminated Employee was dependent on the Employer for accommodation, the Employer shall continue to provide such accommodation to Terminated Employees,"

12. As mentioned above, the Directive permits an employer to take certain measures without the consent of the employee, such as placing an employee on unpaid leave and imposing upon the employee a reduction in pay. The Emergency Period is defined as commencing from 21 April 2020 until 31 July 2020, therefore the Claimant is not entitled to any payment of salary during that period of time.

13. The Claimant's promotion letter did not include in house accommodation provided by the Defendant. The Claimant's new salary of AED 4,000 breakdown is:

Basic Salary	AED 2,000
Housing	AED 1,300
Transport	AED 400
Meal	AED 300

14. The housing amount of AED 1,300 is part of the monthly salary of AED 4,000. As a result, when the Claimant was put on unpaid leave, the

housing allowance was within that. The Directive permits the employer to take that measure without the consent of the employer. In the event that physical accommodation was provided by the employer under an employment contract, an employer would then be obligated to provide accommodation, even during the Emergency Period. In light of the above, the Court dismisses the Claimant's claim for housing allowance.

Conclusion

15. In light of the aforementioned, I find that the Claimant's claim must be dismissed.

16. As the Defendant only settled a portion of the Claimant's claim before the hearing, the Claimant is entitled to the costs associated with filing the claim. As such, the Defendant shall pay the Claimant AED 367.50 for the court fees.

Issued by:
Ayesha Bin Kalban
SCT Judge and Deputy Registrar
Date of Issue: 6 September 2020
At: 2pm