Claim No. SCT 176/2020 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 NASSIR AL NASSER BETWEEN LAYAT Claimant and LENDI HOLDING LIMITED Defendant Hearing : 7 July 2020 Judgment : 16

Claim No. SCT 176/2020

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 NASSIR AL NASSER

BETWEEN

LAYAT

Claimant

and

LENDI HOLDING LIMITED

Defendant

Hearing **: 7 July 2020**
Judgment **: 16 July 2020**

JUDGMENT OF SCT JUDGE AND REGISTRAR NASSIR AL NASSER

UPON the Claim Form being filed on 31 May 2020

AND UPON the Defendant filing an Acknowledgment of Service with an intention to defend part of the claim dated 7 June 2020

AND UPON the parties being called on 10 June 2020 for a Consultation with SCT Judge Maha Al Mehairi and the parties settling part of the claim

AND UPON a Hearing having been held before SCT Judge Nassir Al Nasser on 7 July 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 shall pay the Claimant the sum of AED 45,000.

2. The Defendant shall pay the Claimant the Court fees in the sum of AED 939.99.

Issued by:
Nassir Al Nasser
SCT Judge and Registrar
Date of issue: 16 July 2020
At: 1pm

THE REASONS

The Parties

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

2. The Defendant is Lendi Holding Limited, a company registered in the DIFC (the "Defendant").

The Preceding History

3. The underlying dispute arises over the employment of the Claimant by the Defendant pursuant to an employment contract dated 5 January 2020 (the "Employment Contract").

4. On 12 May 2020, the Defendant terminated the Claimant's Employment Contract effective on the same date.

5. On 31 May 2020, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming the total sum of AED 62,332.14 which consists of the following:

(a) 19 days' salary for May 2020 in the sum of AED 9,500;

(b) Expenses paid by the Claimant in the sum of AED 243.10;

(c) Annual leave balance of 11.18 days in the sum of AED 5,589.04;

(d) Three-month notice period in the sum of AED 15,000; and

(e) The Court fees.

6. On 7 June 2020, the Defendant responded to the claim by filing an Acknowledgment of Service with an intention to defend part of this claim.

7. The parties met for a Consultation before SCT Judge Maha Al Mehairi on 10 June 2020. The parties settled part of this claim in the sum of AED 15,332 which consists of the following:

(a) 19 days' salary for the month of May 2020 in the sum of AED 9,500;

(b) Expenses paid by the Claimant in the sum of AED 243.10; and

(c) Payment in lieu of accrued but untaken annual leave days in the amount of 11.18 days amounting to AED 5,589.04.

8. Thereafter, the parties attended a hearing listed before me on 7 July 2020, in accordance with the Rules and procedures of the SCT.

Discussion

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

10. As per the Employment Contract, the Claimant's monthly salary was AED 15,000.

11. The only issue remaining for determination was the three-month notice period in the sum of AED 45,000 as well as the court fees.

12. As per the Employment Contract and the Defendant's confirmation at the hearing, the notice period applicable to the termination of the Employment Contract entered into between the parties is three months. However, the Defendant argues that due to the COVID-19 pandemic and pursuant to Article 6(1)(c) of the Presidential Directive No 4 of 2020 in respect of COVID-19 Emergency Measures, the Defendant imposed leave without pay upon the Claimant for his contractual notice period. The relevant section of the Directive reads as follows:

"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 their Employees without such Employees' consent:

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(c) impose leave without pay."

13. However, the termination notice dated 12 May 2020 provided to the Claimant by the Defendant (the "Termination Notice"), states that:

"while, we note that your Contract caters for a notice period, we hereby waive this requirement and will remunerate you for the notice period applicable in your Contract. Therefore, the date of this letter shall be the last date of your service in Access".

Findings

14. Article 6(1)(c) of The Presidential Directive No. 4 of 2020 in respect of the COVID-19 Emergency Measures allows an employer to impose leave without pay upon its employees and does not make any reference to the applicability of this upon an employee's contractual notice period. In this case at hand, the Employee was terminated and hence is entitled to his notice period in accordance with the Employment Contract. Moreover, the Defendant, in the Termination Notice, confirmed that the Claimant will be remunerated in relation to the notice period.

15. The Defendant also failed to provide any written documents that the Claimant agreed to the waiver of the payment of the notice period.

16. Therefore, I find that the Claimant is entitled to payment in lieu of three-months' notice period in the sum of AED 45,000.

17. I also find that the Claimant is entitled to the Court fees in the sum of AED 939.99.

Conclusion

18. In light of the aforementioned, it is hereby ordered that the Defendant shall pay the Claimant the sum of AED 45,000.

19. The Defendant shall pay the Claimant the Court fees in the sum of AED 939.99.

Issued by:
Nassir Al Nasser
SCT Judge and Registrar
Date of issue: 16 July 2020
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