Claim No. SCT 160/2020

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

LIJANI

Claimant

and

LUANG RESTAURANT/LANSUR HOUSE HOSPITALITY

Defendant

Hearing **: 7 June 2020**
Judgment **: 10 June 2020**

JUDGMENT OF SCT JUDGE MAHA ALMEHAIRI

UPON this Claim being filed on 6 May 2020

AND UPON the Defendant filing an Acknowledgment of Service indicating its intention to contest the jurisdiction of the DIFC Courts dated 27 May 2020

AND UPON a Jurisdiction Hearing having been held before SCT Judge Maha Al Mehairi on 7 June 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: 10 June 2020
At: 2pm

THE REASONS

The Parties

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

2. The Defendant is Luang Restaurant/Lansur House Hospitality (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 3 March 2019 (the "Employment Contract").

4. 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 6 May 2020, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming the sum of AED 13,500 which includes 1-month notice period, unauthorised deductions for the month of March and other allowances.

6. The Defendant responded on to the Claim Form on 27 May 2020 indicating its intent to contest the jurisdiction of the DIFC Courts. On 7 June 2020, I heard the parties' arguments at a Hearing.

The Jurisdiction Application

7. 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 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."

11. Based on the submissions and the arguments at the Jurisdiction Hearing, I find that this dispute clearly falls within the jurisdiction of the DIFC Courts.

12. The Defendant is a DIFC registered and licensed entity. The Claimant is and was, at all material times, an employee of the Defendant. The claim at hand is a dispute that is governed by the DIFC Employment Law and therefore this claim falls within the jurisdiction of the DIFC Courts.

13. Article 5(A) of the JAL reads that the DIFC Courts shall have jurisdiction over civil claims that arise out of or relate to a contract that was performed or was to be performed within the DIFC. It also states that the DIFC Courts has jurisdiction over claims to which any DIFC body is a party. As the Defendant is a DIFC registered entity, and as the Employment Contract central to the Claim was performed in the DIFC, the DIFC Courts have automatic jurisdiction over this claim.

14. I find that while the Employment Contract states `Law of Dubai', the DIFC Courts maintains its jurisdiction due to the location and registration of the Defendant. Article 5(A) states that the jurisdiction of the DIFC Courts stems from the Claim at hand, not from the individual parties associated with the Claim. This Claim relates to the Claimant's Employment Contract and the Claimant's allegation that the Defendant has not paid her alleged dues.

15. For the above cited reasons, I find that the Defendant's application to contest the jurisdiction of the DIFC Courts must be dismissed.

16. Each party shall bear their own costs as to the application to contest jurisdiction.

Issued by:
Maha Al Mehairi
SCT Judge
Date of issue: 10 June 2020
At: 2pm