Claim No. SCT 327/2020 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 COURTSBEFORE SCT JUDGE MAHA AL MEHAIRI BETWEEN LUELLA Claimant and LITZY INVESTMENTS LLC Defendant Hearing : 4 November 2020 Judgment : 19 November

Claim No. SCT 327/2020

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

LUELLA

Claimant

and

LITZY INVESTMENTS LLC

Defendant

Hearing : **4 November 2020**
Judgment : **19 November 2020**

JUDGMENT OF SCT JUDGE MAHA AL MEHAIRI

UPON this Claim being filed on 16 September 2020

AND UPON the Amended Claim being filed on 25 October 2020

AND UPON a Second hearing having been listed before SCT Judge Maha AlMehairi on 4 November 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 be permitted to access Unit 232 Limestone House, DIFC, Dubai, 2 times per month.

2. The Defendant shall pay the Claimant the Court fee in the sum of AED 367.25.

Issued by:
Ayesha Bin Kalban
SCT Judge and Deputy Registrar
Date of issue: 19 November 2020
At: 8am

THE REASONS

The Parties

1. The Claimant is Luella (the "Claimant"), the landlord of Unit 234, DIFC, Dubai (the "Unit").

2. The Defendant is Litzy Investments LLC (the "Defendant"), an entity leasing the Unit from the Claimant as a holiday home.

Background and the Preceding History

3. On 20 December 2018, the Claimant and the Defendant entered into a tenancy contract (the "Lease Agreement") for a period of 2.5 years in the amount of AED 285,000. The Claimant paid AED 10,000 as a security deposit for the Unit.

4. Clause 17 of the Lease Agreement sets out that:

> "The tenant undertakes and shall at any time upon reasonable notice given by the landlord or competent authority (in case of emergency) permit the landlord or competent authority or their employees or agents full access to premise for the purpose of inspecting or viewing or rectifying any issue in the building or the premise."

5. The parties are in dispute in relation to this clause. The Claimant submits that, under the abovementioned clause, the Claimant, in his capacity as landlord, has the authority to access the Unit and carry out viewings accompanied by prospective buyers and tenants, provided that the Claimant provides the Defendant with sufficient advance notice.

6. The Defendant responds that it has no objection to allowing the Claimant to access the Unit, however submits that, at the time when the Claimant sought to access the Unit, it was occupied by guests on their holiday and thus denied the Claimant access due to privacy concerns. Furthermore, the Defendant states that the Claimant's request came during a period wherein a restriction of movement was imposed by the Government of Dubai in line with its efforts to prevent the spread of the COVID-19 pandemic.

7. On 25 October 2020, the Claimant amended his claim to reflect a change in the Defendant's name, however the Claim Form sets out the Claimant's request for an order granting the Claimant access to the Unit on a regular basis, after providing 48 hours' notice to the Defendant.

8. The parties met for a Consultation with SCT Judge Hayley Norton on 5 October 2020 but were unable to reach a settlement. In line with the rules and procedures of the SCT, this matter was referred to me for determination, pursuant to a Hearing held on 4 November 2020.

Discussion

9. First and foremost, the relevant Lease Agreement is in relation to an apartment in the DIFC, therefore by default, any agreement shall be governed by the prevailing law of the DIFC, United Arab Emirates and that upon failure to resolve any disputes connected to the Lease Agreement, the dispute shall be referred to the DIFC Courts. Therefore, it is clear and undisputed that the DIFC Courts have jurisdiction to decide this matter.

10. The Claimant submits that the Lease Agreement is a fixed-term contract with clear clauses, and pursuant to Clause 17 he should be granted access to the Unit after providing prior notice to the Defendant. The Claimant submits that 48 hours' notice should be sufficient time to allow the Defendant to make any arrangements for the Claimant's arrival to the Unit, and submits that this amount of time is in line with standard agreements in tenancy relationships.

11. In response to this claim, the Defendant's occupant submits that he does not object to Clause 17, but submits that, in granting access to the Claimant, said access should not fall on days where there are guests are occupying the Unit. The Defendant also adds that the Lease Agreement expires in 1 year and that there is sufficient time for the Claimant to source prospective tenants without having unlimited access to the Unit.

12. In review of Clause 17 of the Lease Agreement, I note that this does not limit the amount of access to the Unit given to the landlord Claimant. In light of this, the Court is of the view that the ambiguous nature of this Clause prevents the Defendant from using the Unit for the purpose for which it had leased the Unit. I find that providing 48 hours' notice to the Defendant at any time and for as many times a month at the Claimant's convenience causes significant disruption to the Defendant.

13. The Court does not oppose the Claimant's authority to show the Unit to prospective buyers or tenants but opposes the fact that the Claimant can hold as many viewings as possible. The Court is satisfied that the Claimant can access the Unit 2 times a month provided the Defendant is notified 48 hours prior, as long as the Defendant has not engaged the Unit with guests not at the time.

Conclusion

14. In light of the aforementioned, I find that the Claimant shall have access to the Unit 2 times per month after providing 48 hours' notice to the Defendant.

15. The Defendant shall pay the Claimant the amount of AED 367.25.

Issued by:
Ayesha Bin Kalban
SCT Judge and Deputy Registrar
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