**Claim No. SCT 289/2018**

**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**

**BEFORE SCT JUDGE MAHA AL MEHAIRI**

BETWEEN

**IDETA EQUIPMENT RENTAL LLC**

Claimant

and

**IVKA CONTRACTING CO LLC**

Defendant

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Hearing:**24 September 2018**

Further Submissions: **4 October 2018**

Judgment:**14 October 2018**

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**JUDGMENT OF SCT JUDGE MAHA AL MEHAIRI**

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**UPON** the Claim Form being filed on 2 September 2018;

**UPON** the Defendant contesting jurisdiction on 12 September 2018;

**AND UPON** a Jurisdiction Hearing having been held before SCT Judge Maha Al Mehairi on 24 September 2018, with the Claimant's and Defendant's representatives present;

**AND UPON** reviewing the documents and evidence submitted in the Court file;

**IT IS HEREBY ORDERED THAT** the claim is dismissed for lack of jurisdiction.

Issued by:

**Maha Al Mehairi**

SCT Judge

Date of issue: 14 October 2018

At: 9am

**THE REASONS**

**Parties**

1. The Claimant is Ideta Equipment Rental LLC, a rental company that offers rental solutions for quality products and services.

2. The Defendant is Ivka Contracting Co. LLC, a construction management firm.

**The Claim**

3. The Claim arises out of a series of unpaid rental invoices between the parties. On 31 May 2017, the Claimant and Defendant engaged in serval transactions involving the rental of machines from the Claimant. The rental transaction enters a process which involves the client putting forward an inquiry about the rental of equipment, after which the Claimant provides a quotation. Thereafter, if the order is confirmed, as per general practice, the client provides the Claimant with a written and signed limited purchase order prior to the delivery of the machine. Once the equipment is

delivered to the site, the client signs the Rental Agreement, which also serves as the Delivery Order.

4. Once the client no longer requires the machine on hire from the Claimant, it is required to notify the Claimant that the machine is no longer needed. Following which, the Claimant sends a truck to collect the hired unit, and the client is required to sign the "Off-Hire Notice", whereby the machine is released back to the Claimant. The notice must be signed by the client as well as the delivery driver.

5. Thereafter, the Claimant's accounts department prepares an invoice for the Client based on the rental usage of the machine. If the machine is rented for more than 1 calendar month, multiple invoices will be generated, one month at a time, until the unit is off hired.

6. The Claimant and the Defendant engaged in this process with every rental transaction and, as such, the Claimant has written proof of every transaction that was invoiced to the Defendant. There are 32 invoices pending payment from 2017 in the total amount of AED 135,879.18.

7. On 2 September 2018, the Claimant filed a case against the Defendant in the DIFC Courts Small Claims Tribunal ("SCT") requesting that the Court order that, as per the Rental invoices, the Defendant be required to pay the pending invoices from 2017, the court fee, and the eligible interest as per the law over the claimed amount. The Claimant submitted all copies of the pending invoices from 2017.

8. In response to the Claim, the Defendant contested the Jurisdiction of the DIFC Courts in their acknowledgement of service dated on 12 September 2018. On 24 September 2018 I heard submissions from the Claimant's and the Defendant's representatives at the hearing.

9. In the hearing, the Claimant presented the original invoices and explained the process by which each invoice is generated and how the equipment is delivered to the client - having the client sign on each process for confirmation. The Claimant also added that these invoices were generated from 2017 and have not been paid to date.

10. The Claimant also added that each invoice includes terms and conditions printed on the back of it, which specifies that in case of a dispute between the parties that DIFC Courts will have jurisdiction to deal with the matter.

**The Defendant's Submissions**

11. The Defendant submits that after the death of Mr. Ivrahim, the Dubai Courts formed a Special Court Committee by Resolution N. 21/2017, which was granted the exclusive jurisdiction over the late Ivrahim's inheritance and the Heirs of Ivrahim's related cases.

12. The Defendant also submitted a copy of the Decree that was issued to establish the Special Court Committee, and under the Courts and Judiciary Bodies Obligations, Article 3 of the Decree, states:

> "A. All courts and judiciary bodies in the Emirate of Dubai, including courts of Dubai International Financial Center shall not consider any claim or case submitted upon execution of this resolution concerning matters covered by the competences of the committee. They shall cease to consider claims, cases, and appeals submitted thereto before execution of the present resolution and transfer such to the committee.
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> B. court rulings shall be suspended issued before execution of the provisions of such resolution in all courts in the Emirate of Dubai including courts of Dubai International Financial Center regarding all issues related to the competency of the committee. The execution departments shall suspend all these judgments and shall transfer such to the committee.

13. The Heirs of late Ivrahim are partners in Ivka Contracting Co LLC..

14. As such, all cases related to the late Mr. Ivrahim are directed to that Tribunal, therefore, the case at hand does not fall within the DIFC Courts' jurisdiction as per the five jurisdictional gateways set out in Article 5A (1) of the Law No. 16 of 2011.

**Discussion**

15. Having considered the written submissions and the arguments put forward at the jurisdiction hearing, I find that this dispute falls outside the jurisdiction of the DIFC Courts.

16. Rule 53.2 of the Rules of the DIFC Courts ("RDC") requires that the SCT only hear cases that fall "within the jurisdiction of the DIFC Courts." 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, which provides a number of limited gateways through which the DIFC Courts have jurisdiction over a claim, which are, as relevant:

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

17. There is no evidence that any of these gateways have the potential to apply in this case. Neither of the parties are DIFC Bodies or Establishments. The relevant contracts were not partly or wholly concluded or performed within the DIFC. In fact, there is no alleged connection

to the DIFC. There is no other relevant DIFC Law or Regulation granting jurisdiction in this matter. Finally, all though the parties have agreed in writing to file such claim or action within the DIFC Courts, the Special Tribunal supersedes any agreement that was entered into between the parties.

18. Pursuant to Article 5(A)(2) of the Judicial Authority Law, it is possible for the parties to agree in writing to the jurisdiction of the DIFC Courts after this dispute arose, however, the parties failed to do this. The Defendant contested the jurisdiction of the DIFC Courts and as such this is considered a rejection to an opt-in of the DIFC Courts' jurisdiction.

19. The Court is satisfied that the Defendant's arguments are correct as none of the relevant jurisdictional gateways of the Judicial Authority Law apply to this case due to the Special Tribunal being established to deal with the matter, I must conclude that this case falls outside of the jurisdiction of the DIFC Courts.

**Finding**

20. This is a very straightforward matter, the DIFC Courts and the Small Claims Tribunal do not have jurisdiction to hear this Claim and therefore the Claim must be dismissed in full for lack of jurisdiction.

21. Each party shall bear their own costs.



Issued by:

**Maha Al Mehairi**

SCT Judge

Date of issue: 14 October 2018

At: 9am

