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

IRMA

Claimant

and

ISAAC

Defendant

Hearing: **27 February 2018**

Judgment: **28 February 2018**

JUDGMENT OF SCT JUDGE NASSIR AL NASSER

UPON this claim having been called for a hearing, the Claimant attended the hearing and the Defendant was absent although the Clai m form was served;

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 10,133.28 for the notice period, unpaid salary and vacation leave.

2. All other claims and counterclaims are dismissed.

3. The Defendant shall pay the Claimant the Court Fees in the sum of AED 367.50.

Issued by:

Nassir Al Nasser

SCT Judge

Date of issue: 28 February 2018

At: 2pm

THE REASONS

The Parties

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

2. The Defendant is Isaac (herein "the Defendant"), a company registered in the DIFC located at DIFC, Dubai.

Background and the Preceding History

1. The underlying dispute arises over the employment of the Claimant by the Defendant in the position of "Team Leader Waitress" by an employment contract dated 1 June 2017 (the "Employment Contract") with a joining date on 10 June 2017.

2. Pursuant to the Employment Contract, the Claimant's total salary was AED 4,000 per month which consists of basic salary in the sum of AED 1,500, other allowances in the sum of AED 1,500 and allowances in the sum of AED 1,000. The Claimant was also entitled to 30 calendar days per annual leave if her service at the company exceeded one year.

3. The Claimant alleges that she was terminated verbally on 14 December 2017, she also alleges that she was not given one month notice period and was refused to be given a termination letter. In addition, the Claimant alleges that the Defendant refused to provide her salary and wanted her to pay her visa expenses, she also adds that the Defendant threatened to file an absconding case against her.

4. On 27 December 2017, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") seeking compensation for the days she worked in the company including all the possible benefits and interest that she was supposed to be getting while working in the company, therefore, the total claim was for AED 8,500.

5. On 29 January 2018, the Claimant amended her claim and claimed payment of her November salary in the sum of AED 4,000, 14 days she worked in December 2017 in the sum of AED 2000 and 2 days leave in lieu in the sum of AED 318. The Claimant also claimed compensation and an apology for the emotional and psychological damage through humiliation.

6. The parties met for a Consultation with SCT Judge Natasha Bakirci on 25 January 2018 but were unable to reach a settlement.

7. The Claimant attended the hearing listed before me on 27 February 2018, the Defendant was absent although it was made aware of the date of the hearing.

The Claim

8. The Claimant's case is that she was employed by the Defendant from 10 June 2017, she was verbally terminated on 14 December 2017 without providing her notice period or official termination documentation.

9. The Claimant now seeks the payment of her November 2017 salary in the sum of AED 4,000, 14 days worked in December 2017 in the sum of AED 2,000, payment in lieu of 2 days in the sum of AED 318 and compensation and an apology for the emotional and psychological damage through humiliation.

The Defence

10. The Defendant did not attend the hearing and did not provide sufficient evidence to defend the claim.

Discussion

11. This dispute is governed by DIFC Law No. 4 of 2005, as amended by DIFC Law No. 3 of 2012 (the "DIFC Employment Law") in conjunction with the relevant Employment Contract.

12. Rule 53.61 of the Rules of the DIFC Courts states the following: "if a Defendant does not attend the hearing and the Claimant does attend the hearing, the SCT may decide the claim on the basis of the evidence of the Claimant alone."

13. Therefore, I will decide this claim on the basis of the Claimant's evidence.

14. The Claimant at the hearing claimed Notice period but failed to add the amount in the claim form, the payment of her November 2017 Salary in the sum of AED 4,000, 14 days worked in December 2017 in the sum of AED 2,000, payment in lieu of 2 days in the sum of AED 318 and compensation and an apology for the emotional and psychological damage through humiliation.

15. Article 59(2)(b) of the DIFC Employment Law states the following:

> *"(2) Subject to Article 59(4) and (5), the notice required to be given by an employer or employee to terminate a person's employment, where the person has been continuously employed for one (1) month or more, shall not be less than:*
>
> *(b) (30) days if the period of continuous employment is three (3) months or more but less than five (5) years;"*

16. The Claimant claimed the notice period at the hearing and in her claim form but failed to add the exact amount to the "amount claimed" field in the Claim Form.

17. Therefore, pursuant to Article 59(2)(b) of the DIFC Employment Law, the Claimant is entitled to one month notice period in the amount of AED 4,000

18. In addition, the Claimant claimed her November 2017 salary in the sum of AED 4,000 which she alleges that she did not receive.

19. The Claimant also claimed 14 days salary from December in the sum of AED 2,000 which she also alleges that she did not receive, and her 2 days leave in lieu in the sum of AED 318.

20. I am not satisfied with the Claimant's calculations in regard to the 14 days of December 2017 and the 2 days leave in lieu. Therefore, I will calculate the Claimant's entitlements as follows:

Monthly salary of AED 4,000/30 days = AED 133.33 per day.

14 days of December * 133.33 days= AED 1,866.62

2 days leave in lieu * 133.33 days= AED 266.66

21. Therefore, the Claimant is entitled to the sum of AED 1,866.62 as salary for 14 days of December 2017 and AED 266.66 as 2 days leave in lieu.

22. The Claimant claimed compensation and an apology for the emotional and psychological damage through humiliation. However, the Claimant failed to provide any evidence of emotional and psychological damage through humiliation. In fact, the Claimant failed to provide any evidence of humiliation. Therefore, I dismiss the Claimant's claim for compensation in this connection.

Conclusion

23. In light of the aforementioned, I find that the Defendant is liable to pay the Claimant her dues in the amount of AED 10,133.28 for the remaining salary for November 2017, 14 days from December 2017, one month notice period and payment in relation to vacation leave. All other claims and counterclaims are hereby dismissed.

24. The Defendant shall pay the Claimant the Court Fees in the sum of AED 367.50.



Issued by:

Nassir Al Nasser

SCT Judge

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