THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE SMALL CLAIMS TRIBUNAL

BETWEEN

LAAIBAH

Claimant

and

LYRE RESTAURANT LLC

Defendant

ORDER WITH REASONS OF SCT JUDGE DELVIN SUMO

UPON reviewing the Claim Form submitted by the Claimant dated 1 April 2021 (the "Claim")

AND UPON this Claim having been called for a Consultation before SCT Judge Delvin Sumo on 11 April 2021 with the Claimant's and the Defendant's representatives in attendance

AND UPON reviewing the case file and submissions contained therein

IT IS HEREBY ORDERED THAT:

1. The Claim shall be dismissed.

2. The DIFC Courts do not have jurisdiction over this Claim.

3. Each party shall bear their own costs.

Issued by:
Ayesha Bin Kalban
SCT Judge and Deputy Registrar
Date of Issue: 13 April 2021
At: 2pm

SCHEDULE OF REASONS

The Parties

1. The Claimant is Laaibah, a company registered in Dubai, UAE (the "Claimant").

2. The Defendant is Lyre Restaurant LLC, a company registered in Dubai, UAE (the "Defendant").

Discussion

3. Rule 53.2 of the Rules of the DIFC Courts (the "RDC") requires that the SCT only hear cases that fall within the jurisdiction of the DIFC Courts. The relevant wording is set out below:

> "The SCT will hear and determine claims within the jurisdiction of the DIFC Courts:
>
> (1) where the amount of the claim or the value of the subject matter of the claim does not exceed AED 500,000 or;
>
> (2) where the claim relates to the employment or former employment of a party; and
>
> all parties elect in writing that it be heard by the SCT (there is no value limit for the SCT's elective jurisdiction in the context of employment claims); or
>
> (3) which do not fall within the provisions of sub-paragraph (1) or (2) above, but in respect of which:
>
> a. the amount of the claim or the value of the subject matter of the claim does not exceed AED 1,000,000; and
>
> b. all parties to the claim elect in writing that it be heard by the SCT, and such election is made in the underlying contract (if any) or subsequent to execution of that contract."

4. 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 may exercise jurisdiction over a claim, which are, as relevant:

"1. The Court of First Instance will have exclusive jurisdiction to hear and determine:

a. The civil, commercial and labour claims and actions to which the DIFC or any DIFC body, DIFC establishment or licensed DIFC establishment is a party.

b. The civil, commercial and labour claims and actions arising out of or relating to a contract or promised contract, whether partly or wholly concluded, finalized 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. The Court of First Instance shall have exclusive jurisdiction to hear and determine the civil, commercial and labour 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;

d. Appeals against decisions or procedures made by DIFC bodies where DIFC Laws and DIFC Regulations permit such appeals and claim;

e. Action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations.

2. The Court of First Instance may hear and determine any civil or commercial claims or actions where the parties agree in writing to file such claim or action with it whether before or after the dispute arises, provided that such agreement is made pursuant to specific, clear and express provisions."

5. Pursuant to Article 5(A)(2) of the JAL, the DIFC Courts can exercise its jurisdiction over a matter that is unrelated to the DIFC, where the parties have agreed in writing that any dispute arising between them would be referred to the DIFC Courts for adjudication. Such a provision would allow the parties to `opt-in' to the DIFC Courts' jurisdiction, provided that it clearly demonstrates the parties' intention to do so.

6. The Claimant filed its claim with the DIFC Courts Small Claims Tribunal (the "SCT") seeking the payment of sums allegedly owed to the Claimant by the Defendant in relation to an agreement signed between the Claimant and the Defendant dated 14 November 2018 (the "Agreement").

7. Upon reviewing the Agreement, it appears that the terms and conditions set out therein do not contain an express clause by virtue of which the DIFC Courts would be able to exercise jurisdiction over the Claim in accordance with Article 5(A)(2) of the JAL.

8. Considering the abovementioned, I am of the view that, the DIFC Courts cannot exercise its jurisdiction over this Claim. The DIFC Courts do not have default jurisdiction over this claim as the parties are both based outside of the DIFC and the other gateways of the JAL do not apply.

9. Therefore, I dismiss the Claimant's Claim for AED 25,440 on the grounds that the DIFC Courts lack jurisdiction to determine this Claim.

Conclusion

10. The Claimant's Claim is dismissed due to the Courts' lack of jurisdiction to determine this claim.

11. Each party shall bear their own costs.