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 LEASING TRIBUNAL OF DIFC COURTS
BEFORE H.E. JUSTICE NASSIR AL NASSER

BETWEEN

LYRIC

Claimant

and

LUCIAN

Defendant

Hearing : **20 May 2022**
Judgment : **27 May 2022**

JUDGMENT OF H.E. JUSTICE NASSIR AL NASSER

UPON this claim having been called for a hearing, the Claimant and the Defendant attended the hearing

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 22,500.

2. The Defendant shall pay the Claimant the Court fees in the sum of AED 1,125.

Issued by:
Ayesha Bin Kalban
SCT Judge and Registrar
Date of issue: 27 May 2022
At: 2pm

THE REASONS

The Parties

1. The Claimant is Lyric (the "Claimant"), the owner of the Apartment 001, DIFC, Dubai, UAE (the "Apartment").

2. The Defendant is Lucian (the "Defendant"), an individual who signed a tenancy contract with the Claimant to lease the Apartment.

Background and the Preceding History

3. The underlying dispute arises over a tenancy contract entered into between the parties dated 19 January 2022 (the "Contract"). As per the Contract, the period of tenancy is for one year from 28 March 2022 to 27 March 2023. The Contract provided that the Claimant would rent the Apartment for 1 year in return for AED 135,000 per year, to be paid in two cheques.

4. On 31 March 2022, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") seeking the payment of AED 23,500 being two months penalty as per the Contract.

5. On 27 April 2022, the Defendant filed its Acknowledgment of Service setting out her intention to defend all of the claim.

6. The parties met for a Consultation on 10 May 2022 but were unable to reach a settlement.

7. In line with the processes and procedures of the Small Claims Tribunal (the "SCT") this matter was referred to me for determination pursuant to a Hearing scheduled before me on 20 May 2022.

The Claim

8. The Claimant submits that the parties entered into the Contract on 19 January 2022. The Contract is for one year (28 March 2022 to 27 March 2023) with an annual rent of AED 135,000 payable in two cheques.

9. The Contract included a two months' penalty clause, for the payment of a penalty in the event that the Defendant seeks to terminate the Contract

without providing 2 months' notice.

10. The Claimant submits that she received two cheques from the Defendant, a cheque dated 15 March 2022 in the sum of AED 6,750 being the security deposit to be paid to the DIFC to register the Contract, a cheque dated 15 March 2022 in the sum of AED 67,500 being 50% of the rent amount and a cheque dated 15 September 2022 in the sum of AED 67,500 being the remaining 50% of the rent.

11. On 15 March 2022, the Claimant submits that after depositing the two cheques dated 15 March 2022, both cheques returned due to insufficient funds.

12. The Claimant submits that the Defendant proceeded to cancel the Contract without informing the Claimant or its agent of the cancellation of the Contract.

13. Therefore, the Claimant filed a claim in the SCT claiming two months' rent in the sum of AED 22,500 + AED 1,000 (for the two returned cheques as per the contract) and the Court fees.

14. The Defendant failed to file a written defence, however, at the Hearing made submissions to state that the contract period should commence from the move in date, which is 28 March 2022 and not 17 January 2022, the date of signing the Contract.

Findings

15. The relationship between the parties is governed by the Contract along with the DIFC Leasing Law No. 1 of 2020 ("DIFC Leasing Law") and the Contract Law No. 6 of 2004 as amended ("DIFC Contract Law").

16. I shall first determine the start date of the Contract, to be able to determine the Claimant's claims.

17. The Claimant provided the Defendant with a Contract to rent the apartment dated 17 January 2022. On 19 January 2022, the parties signed the Contract.

18. Article 14 of the DIFC Contract Law provides *"A Contract is concluded by the acceptance of the offer"*.

19. Therefore, I find that the Defendant by accepting the Contract on 19 January 2022 accepted the Claimant's offer (the Contract) and shall be obliged by its terms.

20. Clause 4.3 of the Contract provides *"in the event of termination of contract prior to the mentioned date of expiry, the tenant will have to inform the landlord with a written notice 60 days in advance and indemnify the landlord with an amount equivalent of 2 months' rent"*.

21. There is no evidence before me that the Defendant provided the Claimant with two months' notice to cancel the Contract. Therefore, I find that pursuant to clause 4.3 of the Contract, the Defendant shall pay the Claimant two months' rent being AED 135,000/12 months = AED 11,250 x 2 months = AED 22,500.

22. In relation to the Claimant's claim of AED 1,000 pursuant to clause 2.4 of the Contract which provides *"the Tenant agrees to pay a penalty for returned and bounced cheques in the amount of AED 1,000 for administration and bank charges"*.

23. The Claimant provided an email from her to the agent "Luft" where the Claimant wrote *"I note that as per your response to her via WhatsApp on 14 March 2022 at 19:16pm when she wrote to you at 19:08pm not to deposit the cheques on 15 March 2022 and she would like to cancel the offer that you reminded her of her obligations as per the agreement, and that the 2 months rent penalty would apply"*.

24. The Defendant informed the parties of her intention to cancel the offer on 14 March 2022 and not to deposit the cheques. However, the Claimant on 15 March 2022 deposited the cheques of AED 67,500 being 50% of the rent and AED 6,750 being the security deposit.

25. Therefore, I find that the Defendant is not liable to pay the penalty of AED 1,000 as she informed the Claimant and its agent not to deposit the cheques and of her intention to cancel the Contract.

26. In the light of the abovementioned, I find that the Claimant is entitled to the sum of AED 22,500 being two months' rent, in accordance with the Contract.

27. The Claimant is not entitled to AED 1,000 as penalties for the returned cheques.

28. The Claimant is entitled to the court fees in the sum of AED 1,125.