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

JABRIEL EQUIPMENT RENTAL LLC

Claimant

and

JARITA CONTRACTING LLC

Defendant

Hearing: **11 February 2019**

Judgment: 17 **February 2019**

JUDGMENT OF SCT JUDGE MAHA AL MEHAIRI

UPON this Claim having been called for a Consultation before SCT Judge Ayesha Bin Kalban on 23 January 2019;

AND UPON the parties not having reached a settlement;

AND UPON a Hearing having been held before me on 11 February 2019, with the Claimant and the Defendant's representative attending in person;

AND UPON reading the documents submitted in the Court file and hearing the parties' arguments at the Hearing;

IT IS HEREBY ORDERED THAT:

1. The Defendant shall pay the Claimant the sum of AED 141,057.50 in relation to unpaid invoices.

2. The Defendant shall pay the Claimant the DIFC Courts fee in the sum of AED 7,052.88.

Issued by:

Hayley Norton

SCT Judge

Date of issue: 17 February 2019

At: 10am

THE REASONS

The Parties

1. The Claimant is Jabriel Equipment Rental LLC (hereafter "the Claimant"), a company registered in Dubai located at, Dubai, UAE.

2. The Defendant is Jarita Contracting LLC (hereafter "the Defendant"), a company registered in Dubai, UAE.

Background and the Preceding History

3. The underlying dispute arises over the hiring of construction machinery by the Claimant to the Defendant pursuant to Hire Agreements (the "Agreements"), and the Defendant's failure to pay the Claimant sums due pursuant to the Agreements.

4. On 12 December 2018, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") for payment of AED 148,110.38 due under 27 invoices.

5. On 8 January 2019, the Defendant filed an Acknowledgment of Service admitting the Claim and later that same day applied to the Court to retract its admission.

6. The parties met for a Consultation with SCT Judge Hayley Norton on 23 January 2019 but were unable to reach a settlement.

7. On 11 February 2019, a hearing was listed before me, at which both parties attended.

The Claim

8. The Claimant's case is that they entered into an agreement with the Defendant to supply construction machinery for a certain period as can be seen from the date of the invoices (which were acknowledged by the Defendant) in the sum of AED 141,057.50, and are set out as follows:

(a) INV No. 32589 dated 30 September 2017 for the period 1 September 2017 to 30 September 2017 in the sum of AED 326.93.

(b) INV No. 32778 dated 31 October 2017 for the period 1 October 2017 to 31 October 2017 in the sum of AED 4,573.07.

(c) INV No. 32841 dated 31 October 2017 for the period from 1 October 2017 to 31 October 2017 in the sum of AED 6,000.

(d) INV No. 32779 dated 26 April 2017 for the period from 1 November 2017 to 10 November 2017 in the sum of AED 2,833.33.

(e) INV No. 33108 dated 30 November 2017 for the period from 1 November 2017 to 10 November 2017 in the sum of AED 6,000.

(f) INV No. 33189 dated 30 November 2017 for the period from 11 November 2017 to 30 November 2017 in the sum of AED 5,666.67.

(g) INV No. 33294 dated 26 December 2017 for the period from 14 December 2017 to 26 December 2017 in the sum of AED 7,300.

(h) INV No. 33327 dated 31 December 2017 for the period from 1 December 2017 to 31 December 2017 in the sum of AED 8,500.

(i) INV No. 33339 dated 31 December 2017 for the period from 1 December 2017 to 31 December 2017 in the sum of AED 6,000.

(j) INV No. 33618 dated 31 January 2018 for the period from 1 January 2018 to 31 January 2018 in the sum of AED 8,925.

(k) INV No. 33626 dated 31 January 2018 for the period from 1 January 2018 to 31 January 2018 in the sum of AED 6,300.

(l) INV No. 33882 dated 28 February 2018 for the period from 1 February 2018 to 28 February 2018 in the sum of AED 8,925.

(m) INV No. 33883 dated 28 February 2018 for the period from 1 February 2018 to 28 February 2018 in the sum of AED 6,300.

(n) INV No. 33974 dated 3 March 2018 for the period from 2 March 2018 to 8 March 2018 in the sum of AED 4,515.

(o) INV No. 33968 dated 10 March 2018 for the period from 1 March 2018 to 10 March 2018 in the sum of AED 2,100.

(p) INV No. 34011 dated 19 March 2018 for the period from 3 March 2018 to 19 March 2018 in the sum of AED 8,685.

(q) INV No. 34157 dated 28 March 2018 for the period from 22 March 2018 to 28 March 2018 in the sum of AED 6,300.

(r) INV No. 34115 dated 31 March 2018 for the period from 1 March 2018 to 31 March 2018 in the sum of AED 8,925.

(s) INV No. 34166 dated 31 March 2018 for the period from 2 March 2018 to 31 March 2018 in the sum of AED 9,240.

(t) INV No. 34291 dated 25 April 2018 for the period from 1 April 2018 to 25 April 2018 in the sum of AED 7,000.

(u) INV No. 34362 dated 30 April 2018 for the period from 1 April 2018 to 30 April 2018 in the sum of AED 8,925.

(v) INV No. 34555 dated 31 May 2018 for the period from 1 May 2018 to 31 May 2018 in the sum of AED 8,925.

(w) INV No. 34685 dated 30 June 2018 for the period from 1 June 2018 to 30 June 2018 in the sum of AED 8,925.

(x) INV No. 34795 dated 31 July 2018 for the period from 1 July 2018 to 31 July 2018 in the sum of AED 8,925.

(y) INV No. 34957 dated 31 August 2018 for the period from 1 August 2018 to 31 August 2018 in the sum of AED 8,925.

(z) INV No. 35103 dated 27 September 2018 for the period from 1 September 2018 to 27 September 2018 in the sum of AED 8,032.50.

9. The Claimant confirms that the Defendant made two payments; the first on 3 March 2018 in the amount of AED 22,365 the second payment on 22 March 2018 in the amount AED 13,650.

10. The Claimant also provided copies of signed job reports for the breakdowns that occurred on site as confirmed by the Defendant's representative.

11. In sum, the total amount claimed by the Claimant is in the amount of AED 141,057.50 with regard to unpaid invoices. The Claimant also claimed Court fees in the sum of AED 7,052.88.

The Defence

12. The Defendant failed to provide any defence prior to the hearing date, and at the Hearing the Defendant did not contest the validity of the invoices and admitted that they are valid and due to be paid, however, the Company is experiencing difficult times and struggling to pay the amounts owed.

Discussion

13. The parties are both registered and located outside of the DIFC but have opted into the DIFC Courts Jurisdiction as can be seen in Clause 2, Annexure 1 of the Terms and Conditions which states the following: *"by entering into a Rental Agreement (Hire Agreement) with Jabriel Equipment Rental LLC, hirer hereby consents that the jurisdiction for the Rental Agreement will be Dubai International Financial Centre (DIFC), and that any dispute arising out of this Agreement will be resolved thru DIFC Courts. Any dispute, difference, controversy or claim arising out or in connection with this contract, including (but not limited to) any question regarding its existence, validity, interpretation, performance, discharge and applicable remedies, shall be subject to exclusive jurisdiction of the Courts of the Dubai International Financial Centre ("the DIFC Courts")."*

14. Article 5(A) of the judicial authority law, Dubai Law No. 12 of 2004, as amended 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;
>
> (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;
>
> (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."

15. Therefore, pursuant to Article (5)(A) of the Judicial Authority Law, Dubai Law No. 12 of 2004, as amended, the DIFC Courts have the authority to hear and determine this claim.

16. The Claimant filed a claim for outstanding invoices in the sum of AED 141,057.50 and the Court fee in the sum of AED 7,052.88.

17. The Defendant failed to provide any evidence to prove that the invoices are disingenuous and are not due to be paid.

18. Therefore, I find that the Defendant is liable to pay the Claimant the sum of AED 141,057.50 as per the Agreement and the invoices provided.

Conclusion

19. In light of the aforementioned, I find that the Defendant shall pay the Claimant the total sum of AED 141,057.50 being the payments for the above-mentioned invoices.

20. The Defendant shall pay the Claimant the court fee in the sum of AED 7,052.88.



Issued by:

Hayley Norton

SCT Judge

Date of Issue: 17 February 2019

At: 10am