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

HALEIGH

Claimant

and

HABIBA (MIDDLE EAST) LTD

Defendant

Hearing: **22 November 2017**

Judgment: **27 November 2017**

JUDGMENT OF SCT JUDGE NASSIR AL NASSER

UPON hearing the Claimant and the Defendant

AND UPON reading the submissions and evidence filed and recorded on the Court file

IT IS HEREBY ORDERED THAT:

1. The Claimant's claim shall be dismissed in full.
2. Each party shall bear their own costs.

Issued by:

Nassir Al Nasser

SCT Judge

Date of issue: 27 November 2017

At: 10am

THE REASONS

The Parties

1.The Claimant is Haleigh (herein "the Claimant"), an individual filing a claim against the Defendant regarding his alleged employment at the Defendant's company.

2. The Defendant is Habiba (Middle East) LTD (herein "the Defendant"), a company providing banking services, registered in the DIFC and

located at DIFC Gate Building Dubai.

Background and the Preceding History

3. The underlying dispute arises over the employment of the Claimant by the Defendant by an Employment Agreement signed on 30 January 2017 (the "Employment Agreement") with an effective starting date of 1 May 2017.

4. Pursuant to the Employment Agreement, the Claimant's total monthly salary was AED 101,639.00 which consists of basic salary in the sum on AED 67,759.33 and General allowance in the sum of AED 33,879.67. In addition, the Claimant was also entitled to 25 working days' annual leave per annum.

5. On 28 September 2017, the Claimant was terminated with three months' notice until 31 December 2017.

6. On 18 October 2017, the Claimant filed a claim (the "Claim") in the DIFC Courts' Small Claims Tribunal (the "SCT") requesting the Defendant to take into consideration his situation and provide him with sufficient compensation so that he meets his commitments for at least a period of one year from start of employment which was 1 May 2017 to 30 April 2018 in the sum of AED 424,576.42. In addition, the Claimant confirmed that he is being paid his contractual entitlements.

7. The Defendant responded to the Claim on 19 October 2017 defending the Claim and requesting the Court to dismiss the Claimant's Claim.

8. The parties met for a Consultation with SCT Officer Lema Hatim on 7 November 2017 but were unable to reach a settlement.

9. Both parties attended the hearing before me listed on 22 November 2017.

The Claim

10. The Claimant's case is that he was employed by the Defendant from 1 May 2017 onwards and he was terminated on 28 September 2017.

11. The Claimant asserts that he was terminated for economic reasons which the Defendant alleges are incorrect. The revenue and new net assets figures given until the end of year were entirely achievable and revenue figures for the team exceeded expectations. In addition, he alleges that at no time during the five months period were they told that their numbers on revenue were unacceptable and no warnings were given that there were economic reasons for possible termination.

12. The Claimant alleges that the new business pipeline was sufficiently strong to meet all expectations of management by year end. He also alleges that all prospective contacts were logged by way of call reports in the bank system and evidenced a very healthy stream of new business for the bank.

13. The Claimant also asserts that at the time of the takeover, Senior Management of the Defendant had on numerous occasions indicated that new teams would be given sufficient time to develop the business and show results and this period was at least a year. However, the termination after five months was unjust and grossly in contradiction to the undertaking given by the Senior Management of the Defendant.

14. In addition, the Claimant alleges that two staff members were offered severance packages different from others based upon their marital status and that he was told as a justification that this is a discretion. The Claimant alleges that this is discrimination as no discussion was held with him to assess his economic, financial and health situation.

15. Furthermore, he adds that the Defendant's actions caused him to suffer a loss to his reputation in respect of his clients, as he was terminated after only five months. He also adds that this is the most serious negative impact on him personally as he was in the banking sector for almost 30 years and this allegedly unjustified termination following just five months of employment has damaged his reputation as a reliable wealth manager.

16. The Claimant filed this claim seeking reconsideration from the Defendant and to provide him with sufficient compensation so that he can meet his commitments for at least a period of one year from 1 May 2017 until 30 April 2018. In addition, he seeks for the balance salary to be covered until 30 April 2018. Therefore, the total amount the Claimant is seeking is AED 424,000 and reimbursement of the Small Claim Tribunal's Court fees.

The Defence

17. The Defendant admits that he issued the Claimant with a notice of termination after five months of commencing employment with the Defendant. However, the Defendant denies that the Claimant was unfairly terminated.

18. The Defendant alleges that termination was carried out in accordance with DIFC Employment Law No. 4 of 2005 as amended. Furthermore, the Defendant alleges that there is no concept of unfair dismissal in the Dubai International Financial Centre. He also adds that the DIFC Courts in the case of *Hana Al Herz v Dubai International Financial Centre Authority [2012] DIFC CFI 011* made it absolutely clear that, regardless of the reasons for the termination or the manner in which the termination is carried out, there is no entitlement to compensation for unfair dismissal in the DIFC. Coleman DCJ stated in his judgment that:

> ". in the DIFC there is a comprehensive legislative code applicable to contracts of employment namely the Employment Law. If there was to be free standing principle that certain principles of unfairness or lack of good faith or breach of confidence restricted an employer's power to terminate an employment contract on notice in accordance with its express terms, it is inconceivable that it would not be included in that Law.".

19. The Defendant alleges that Employers in the DIFC are permitted to dismiss employees in accordance with the notice provision contained in the Employment Contract. He also adds that there are no additional implied obligations imposed upon employers provided that the express statutory and contractual termination obligations are met.

20. The Defendant also alleges that the Claimant was provided with three months' notice of termination on 28 September 2017 as per his contract of employment dated 30 January 2017. In addition, he will receive all payments due to him in accordance with the DIFC Employment Law and Employment Contract as set out clearly in the Termination letter. The Defendant also adds that his termination was carried out lawfully in accordance with the DIFC Employment Law and the Claimant is entitled to no further compensation over and above his statutory and contractual entitlements.

21. The Defendant denies that the Claimant is entitled to an award of compensation in the sum of AED 424,000 (a payment equal to his salary in respect of the period from 1 January 2018 to 30 April 2018). He also denies that he is liable to cover the Claimant's legal costs.

Discussion

22. This dispute is governed by the DIFC Employment Law in conjunction with the relevant Employment Agreement.

23. On 18 October 2017, the Claimant filed a claim in the DIFC Courts' SCT requesting the bank to take into consideration his situation and provide him with sufficient compensation so that he meets his commitments for at least a period of one year from the start of his employment on 1 May 2017, in the sum of AED 424,576.42. In addition, the Claimant confirmed that he is being paid his contractual entitlements.

24. The Defendant admits that he has issued the Claimant with a notice of termination after five months of commencing employment with the Defendant. However, the Defendant denies that the Claimant was unfairly terminated, in fact the Defendant argues that the Claimant's termination is pursuant to the DIFC Employment Law and the Employment Contract between the Claimant and the Defendant. The Defendant also argues that the Claimant has been given three months' notice.

25. The Claimant's Claim is not supported by any evidence and in my opinion the Defendant has shown that it gave the Claimant his contractual rights pursuant to the Contract between the parties and pursuant to the relevant provisions of DIFC Employment Law.

Conclusion

26. In light of the aforementioned, I dismiss the Claimant's claim for lack of evidence.

27. Each party shall bear their own costs.

Issued by:

Nassir Al Nasser

SCT Judge

Date of Issue: 27 November 2017

At: 10 am