



In the name of His Highness Sheikh Tamim bin Hamad Al Thani,

Emir of the State of Qatar

Neutral Citation: [2021] QIC (F) 18

IN THE QATAR INTERNATIONAL COURT

FIRST INSTANCE CIRCUIT

4 August 2021

CASE No. CTFIC0016/2021

BETWEEN:

AN LAWYER

Claimant

v

DWF LLP (QFC BRANCH)

Defendant

JUDGMENT

Before

Justice Frances Kirkham

Justice Fritz Brand

Justice Helen Mountfield QC

This judgment was issued to the parties on 4 August 2021. This copy has been anonymised by the Court for publication.

ORDER

Upon consideration of the Claimant's Claim Form, dated 14 July 2021, and supporting documents,

Upon consideration of the Defendant's emails of the 15 and 16 July 2021, and

Upon the Court considering that it is in the interests of justice to proceed to make an Order on the Claim,

IT IS ORDERED THAT:

1. The Defendant is required to provide to the Claimant forthwith, and certainly by no later than 4pm on Sunday 18 July 2021, a copy of the no-objection certificate / letter requested by the Claimant in order to allow him to have his personal belongings shipped from the State of Qatar.
2. The Court will give its reasons for this Order in due course.
3. There is no order as to costs.

JUDGMENT

[1] On 18 July 2021, this Court issued the Order above, with reasons to follow. This judgment sets out the reasons why the Court granted the Order sought.

Factual background

[2] The Claimant is a Lawyer and an American national. It is not disputed that he was employed by the Defendant (the law firm DWF LLP (QFC Branch)), in the State of Qatar between October 2020 and 4 April 2021 on a 6-month fixed term employment contract.

Foreign national workers in Qatar must have a ‘sponsor’. When the Claimant’s fixed term employment relationship with the Defendant ended, he remained under the Defendant’s sponsorship in the hopes of finding another job in Qatar. However, the hoped-for opportunity did not arise, and on 4 July 2021, he emailed his former employer informing them that he would be leaving the country on 16 July 2021. He explained that he needed what he described as a non-objection letter (also known as a ‘non-objection certificate’ (“NOC”)) from his sponsor addressed to the customs authorities in a particular format. The Claimant sent copies of the two letters, which are only issued in Arabic, to his employer, and explained that, to be acceptable to the authorities, these letters must be printed on the Defendant’s letterhead and supplemented with copies of its CR and Computer Card. He requested these at the earliest opportunity so that he could arrange to ship his belongings.

[3] However, the Defendant declined to issue the NOCs as sought. The Claimant says that they would not do so unless he signed a settlement agreement with them, which he refused to do, or applied to the Court in order to obtain the NOCs necessary. The Court has seen a copy of the settlement agreement which the Defendant wished the Claimant to sign, which was essentially a series of warranties that the Claimant had no outstanding claims against the Defendants; had no outstanding debts in the State of Qatar; would hold harmless and indemnify the Defendant against any claims against them by third parties which arose in respect of any such debts, and confirmation that confidentiality and restrictive covenants which arose during the employment survived its termination.

[4] Luigia Ingianni from the Employment Standards Office emailed the Claimant on 13 July to say that the Defendant had informed her that signing an NOC for customs purposes was not strictly necessary under the Employment Regulations or Code, and that they wished (as she

put it, in quotation marks) “to close the door fully and finally” on his employment in all respects before providing the NOCs.

[5] On the basis of advice from Ms Ingianni, the Claimant approached this Court on the same day, asking it to issue an order to obtain the NOCs necessary to repatriate his belongings. The Defendant said it needed some time to respond to the Claim.

[6] The Court considered that the matter was urgent since the Claimant needed NOCs by Monday 19 July 2021. It also considered that, since the Defendant was a legal limited liability partnership, it ought not to need external help to formulate a succinct response. Moreover, the prejudice to the Claimant if the Court declined to make the order sought outweighed the prejudice to the Defendant if it did so on an expedited basis.

[7] Accordingly, when the Court received this claim, it abridged time for the Defendant to respond. The Defendant was asked to respond to the Claim by close of business on 16 July 2021.

[8] The Defendant’s response was to query the Court’s jurisdiction, and to say that it had identified no authority for the proposition that it was required to issue an NOC, and feared incurring legal liability if it were to do so.

[9] Upon receipt of this response, the Court considered the matter on the papers over the weekend, and issued the order above on 18 July 2021.

Jurisdiction

[10] It is faintly suggested in the Defendant’s response that they are not within the jurisdiction of this Court. It is impossible to understand how they can put this matter into dispute.

[11] Rule 9.1.4 of this Court’s rules establish that it has jurisdiction to determine a dispute arising from a contract or transaction concluded between an entity established in the QFC and a resident of the State of Qatar. This is such a dispute. The Defendant is described on its own letterhead as “DWF LLP (Qatar Branch)”. The Claimant describes it on his claim form as “DWF LLP (QFC Branch)”. The Contract between the Claimant and Defendant dated 23 September 2020 expressly states at paragraph 22.1 that “This agreement will be governed by and construed in accordance with the laws and regulations of the QFC. The Parties hereby submit to the exclusive jurisdiction of the QFC Courts and Tribunal” (emphasis added).

[12] In relation to any such dispute, rule 10.3 of this Court’s rules provides that the Court may make any order it considers just.

[13] In those circumstances, the Court has jurisdiction and power to make the Order sought by the Claimant if this is what justice requires.

Whether the Defendant is under a duty to issue an NOC

[14] The Defendant’s substantive defence is that the Claimant has not made out a basis upon which it can be said that the Defendant is under a duty to issue an NOC, and that by doing so it may expose itself to some (unspecified) liability. The Court rejects this defence.

[15] The legal basis for the application is set out in the QFC Employment Code of 6 February 2010, which provides at paragraph 10 that employers must take all steps necessary to permit their employees, whether sponsored or not, to transfer to another employer in the state, whether in the QFC or not, and that this includes providing all the documentation required under State or QFC requirements “including non-objection letters and consents”. In the Court’s view, given the terms of paragraph 9 of the Code, which immediately precede this, and include the right of

an employer to terminate employment at any time, this includes a duty to permit transfer of sponsorship for former employees. Unless the Claimant obtains the NOCs he seeks, he will be ineligible for future employment in the QFC (as well as being unable to transfer his belongings out of Qatar).

[16] Moreover, paragraph 10 of the QFC Employment Code expressly states that disputes regarding the terms of termination, any alleged breach by the employee of the terms of the employment contract and/or the amount of the financial settlement must be delinked from the sponsored employee's right to seek new employment in the State, whether in the QFC or not, and that in the event of a dispute regarding the termination, including the amount of the financial settlement, the employer may not withhold the non-objection letter pending the resolution of such issues.

[17] The correct route, if there is any dispute as to (for example) third party liability arising from the employment contract or the extent of post-termination enforcement of restrictive covenants is for the Defendant to apply to have these resolved by the ESO, as set out in the QFC Employment Code. It is not entitled to forestall this process by insisting on the signing of a settlement agreement (and thereby termination of any ESO process) as a condition of signing NOCs.

[18] The Court has not been told the basis upon which the Defendant considers it is entitled to require the Claimant to sign the contract which it proposed by email dated 13 July 2021 that he should sign to "close the door finally" on his employment before the Defendant provided him with the NOCs he required. We need say nothing about that, since it is clear from paragraph 10 of the Employment Code that, whether or not there are any ongoing disagreements between the parties, this is not a proper reason to withhold an NOC.

[19] The Defendant makes reference to an apprehension of potential legal exposure resulting from the execution of the NOCs sought. But it advances no reasoned basis for such an apprehension. The Court notes from the documents provided by the Claimant in support of his application that, as requested, the Claimant provided the Defendant with confirmation that he had no outstanding debts in the QFC.

[20] For these reasons, and pursuant to the Court's powers set out in Article 10 of its rules, the Court concluded that it was just to make this Order.

Costs

[21] In the normal course of events the Claimant would be entitled to a cost order in his favour. But since he was not legally represented, and did not ask for an order to this effect, there will be no order as to costs.

By the Court,



Justice Helen Mountfield QC