

JUDGMENT SUMMARY

Neutral Citation	[2022] ADGMCFI 0001
Case Number	ADGMCFI-2021-021
Name of Case	Samer Yasser Hilal v Haircare Ltd
Judge	Justice Sir Michael Burton GBE
Date Issued	7 January 2022
Catchwords	Wrongful termination of fixed-term employment contract. Mitigation of loss. Employee's entitlement towards damages including salary. Commission. Annual leave. Repatriation. End-of-service gratuity. Medical insurance. Deducted visa costs.
Cases Cited	Boston Deep Sea Fishing & Ice Co v Ansell (1888) L.R. 39 Ch. D 339 CA
Legislation and Authorities Cited	ADGM Employment Regulations 2019 – Sections 14(2), 22, 23, 59(2)(a), 59(4), 63 and 65
Executive Summary	This judgment considers a case of wrongful termination of the Claimant's employment contract. The Court ultimately ruled in favour of the Claimant, awarding a total sum of AED 149,679.50 for various entitlements including unpaid salary, commission, annual leave and other related costs. The judgment also addresses issues of mitigation of loss and the Defendant's unsuccessful attempt to justify the dismissal based on alleged gross misconduct.
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market Court of First Instance (Employment Division) judgment considered a claim brought by Samer Yasser Hilal (the "Claimant") against Haircare Ltd (the "Defendant") regarding the termination of his employment.</p> <p>The Claimant was employed as a hairdresser under a three-year fixed-term employment agreement commencing on 25 July 2019 (the "Employment Agreement"). His employment was summarily terminated by the Defendant on 25 September 2020. The Defendant admitted the termination and the onus was consequently on it to justify the dismissal as being for cause, specifically gross misconduct, according to the</p>

	<p>Employment Agreement. At the time of termination, 22 months of the Employment Agreement remained outstanding.</p> <p>The Defendant argued that the dismissal was justified because the Claimant allegedly claimed to be the owner of the Defendant's salon. The Defendant also mentioned other complaints about the Claimant's conduct.</p> <p>Analysis</p> <p>However, the Court found that the dismissal did not result from the alleged claim of ownership or other complaints. Instead, the Court was satisfied that the dismissal resulted from a heated telephone conversation between the Claimant and the Defendant's Managing Director on 25 September 2020. This conversation arose because the Claimant strongly and vigorously complained about the Defendant's Managing Director having spoken to the Claimant's girlfriend and interfering in his personal affairs by saying "<i>bad things</i>" about him.</p> <p>The Court concluded that the Claimant's "<i>understandable loss of temper</i>" during this conversation was not conceivably justification for dismissal on the grounds of gross misconduct. Therefore, the Claimant's dismissal was not for cause under the Employment Agreement, and he was entitled to damages for breach of contract.</p> <p>The Claimant was entitled to damages for the remaining 22 months of the Employment Agreement. The Court determined that the Claimant was unable to mitigate his loss during the period until the judgment because the Defendant had issued Absconding Summonses in the Abu Dhabi Courts against him, leading to police involvement, inability to find alternative employment, imprisonment and eventual deportation.</p> <p>Conclusion</p> <p>The Court entered judgment in favour of the Claimant for a total sum of AED 149,679.50. This sum included:</p> <ul style="list-style-type: none"> • an admitted unpaid commission of AED 2,379.50; and • damages covering: <ul style="list-style-type: none"> ○ salary: AED 100,000 (20 months at AED 5,000/month); ○ commission: AED 30,000 (20 months at AED 1,500/month, adjusted for expected business decline); ○ annual leave: AED 8,000; ○ repatriation: AED 1,900; ○ end-of-service gratuity: AED 3,500; ○ medical insurance: AED 900; and ○ deducted visa costs: AED 3,000.
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