

JUDGMENT SUMMARY

Neutral Citation	[2023] ADGMCFI 0007
Case Number	ADGMCFI-2022-225
Name of Case	Mohammed R A Khaled v 3leem LTD
Judge	Justice Sir Michael Burton GBE
Date Issued	28 March 2023
Catchwords	Whether an employee of the company. Effect of salary certificates.
Cases Cited	–
Legislation and Authorities Cited	–
Executive Summary	<p>This judgment concerns an employment dispute in which the Claimant sought AED 73,000 for unpaid salary, notice period, and end-of-service gratuity, claiming he was employed by the Defendant company. The Defendant, represented by the former CEO (the Claimant's former wife), argued that the Claimant was not an employee but rather a founder and shareholder. Ultimately, the court found in favour of the Claimant, citing two salary certificates as compelling evidence of his employment status.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market Court of First Instance (Employment Division) judgment considers case fought by the Claimant husband, Mr Mohammed Khaled, against the Defendant, 3Leem Ltd now in the person of his (former) wife, its former CEO, Ms Alaa Abuyounis. The Claimant sought AED 73,000 from the Defendant for unpaid salary, notice period, and end of service gratuity.</p> <p>The central issue was whether the Claimant was employed by the Defendant. The Court held that if there was any employment relationship, over and above the marital one, it was brought to an end by an email from Ms Abuyounis dated 4 January 2022, announcing that 3Leem operations</p>

	<p>had stopped. While the Claimant received this email, Ms Abuyounis asserted he received it as a founder/shareholder, not an employee.</p> <p>Analysis</p> <p>The Claimant had no formal employment contract. A number of factors were presented that were consistent with either employment or other roles (shareholder, founder, or just husband of the CEO). These included the Claimant holding access cards like the CEO, receiving the operational stoppage email, receiving payments from the Defendant (which Ms Abuyounis said was half of her salary), attending the Defendant's premises, working with employees, and sometimes supervising them (though Ms Abuyounis claimed this related to work for his own company, Dolphinuz), and his photo appearing in draft literature under "Our people" alongside founders and employees.</p> <p>The Court identified two salary certificates as the only potentially unequivocal evidence of the Claimant's employment position. An earlier certificate dated 23 February 2021 stated he worked as a Marketing Consultant since 1 December 2020 with a monthly basic salary of AED 13,000. A June 2021 certificate recorded the salary as AED 15,000. Both were signed by Mr Al Hajeri (a founder/shareholder of the Defendant) and had the Defendant's stamp. Ms Abuyounis asserted the certificates were forged, but the Court found no other evidence to support this assertion, and Mr Al Hajeri did not testify to support her claim.</p> <p>The Court considered other evidence, including a witness (Mr Nasser) who recalled the Claimant denying being an employee socially, but the Court found this denial could be attributed to the Claimant's personality. Evidence that the Claimant's name was not on internal employee payment lists was found not inconsistent with employment, given other payment arrangements.</p> <p>Conclusion</p> <p>The Court found it could not disregard the salary certificates, which were not challenged by evidence (as opposed to mere assertion) as to their unreliability or their fabrication. Consequently, the Court found in favour of the Claimant on the issue of employment, and due to the absence of any issue as to the calculation of the balance of unpaid salary, payment in lieu of notice or end of service gratuity as claimed, judgment for AED 73,000 followed.</p>
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court's reasons.