



## TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR  
AVV. DR. DUNCAN BORG MYATT

Today the 24<sup>th</sup> September 2024

Claim number 373/2023

AMINO CHEMICALS LIMITED  
(C 13583)

-vs-

STEFAN PFEFER  
(Passport Number 011625956)

THE TRIBUNAL,

Saw the Notice of Claim filed by claimant company on the 12th October 2023 in which plaintiff company requested this Tribunal to condemn defendant that he owes money to the company and consequently to pay the amount of one thousand two hundred eighty Euro (Eur 1280.00), which amount represents costs for the submission of the *single permit* application including lawyers' fees. With costs and interest.

Saw defendant's reply filed on the 8th January 2024 wherein defendant replied that the allegations brought forward by plaintiff company are unfounded both in fact and in law since defendant did not breach any contractual obligations and consequently there is no amount due to plaintiff company. Furthermore, defendant submits that the payment requested by plaintiff company has not been authorised by the Director of Industrial and Employment Relations according to Chapter 452 of the Laws of Malta.

Saw the note filed by plaintiff company whereby the amount claimed has been reduced to one thousand and thirty cents (Eur 1000.30).

Having seen that on the 15th February 2024, the Tribunal acceded to plaintiff company's request to conduct proceedings in the English language since defendant does not understand the Maltese language.

Having heard the witnesses.

Having seen the documents exhibited.

Having seen all acts of the proceedings.

Having seen that this case was adjourned for judgement.

### Facts of the Case

The Deputy HR Manager of plaintiff company, Caroline Fava Pace confirmed that defendant was employed with plaintiff company as a production operator from the 22nd March 2023 till the 15th September 2023. The witness stated that although the contract of employment was standard for all operators, whenever a work permit is needed, the contract of employment would include clause 5 which states that "*should the employee terminate this employment or be dismissed for a good and sufficient cause within a period of twenty four months (24) from date of the obtainment of a work permit, the employee shall reimburse the costs of application including lawyer fees.*" The witness says that defendant agreed and signed for this clause.

Under cross examination, the witness said that the specific amount to be paid under clause 5 of the contract of employment was never mentioned "*because the fees are given by the lawyers*". (Fol.28). The legal firm giving professional services in relation to the single permit application was engaged by the company. The witness says that if an employee is terminated or leaves the company before the lapse of 24 months, the legal fees are passed on to the employee to pay.

Defendant gave evidence on the 11th April 2024 where he stated that he was in Malta under a three month tourist visa. During his stay in Malta, he applied to work with plaintiff company and was chosen as a production operator. Although he was happy working with plaintiff company, defendant found it hard to cope since his colleagues did not speak English.

Defendant states that "*I did not receive any services whatsoever from the fact. . . I wasn't even consulted on the fact. I didn't have any contract with them*". (Fol.37). However, defendant states that "*they pointed the clause out. I asked them is this necessary . . . I mean I never in my. . . I had. . . in Malta before. . .and I never experienced this kind of clause. It was very suspicious to me at the time.*" (Fol.37). Asked by the Tribunal whether he was aware of this clause, defendant replied that he was aware and was also informed during the interview stage. Defendant decided to sign because he needed employment to avoid being forced to leave the country.

Under cross examination, defendant states that he needed a single permit to be able to work with plaintiff company.

## Considerations

This case revolves around a contractual clause which binds the employee qua defendant to pay fees for his single permit if he is no longer an employee within a 24 month period. On his part, defendant states that he does not owe any money to plaintiff company since he has no contractual relationship with the legal firm applying for his permit. Clause 5 of the contract of employment states: -

*“Should the Employee terminate this employment, or be dismissed for a good and sufficient cause, within a period of 24 months from date of the obtainment of a work permit, the Employee shall reimburse the cost of application including lawyers’ fees.”*

There is no contestation to the fact that defendant needed a single permit to be able to work with plaintiff company. In fact, defendant himself admitted that he needed employment to avoid having to leave the country upon the lapse of his tourist visa.

The procedure for a single permit application is done by the employer on behalf of the employee since, in most cases, registration is done through the employer’s portal with the Maltese entity. Although the procedure is not cumbersome and only entails the uploading of several documents, plaintiff company appointed a legal firm to carry out such applications. Given that the legal firm engaged by plaintiff company would invoice for its professional services, plaintiff company has included a clause in the employment contract, whereby such fees should be refunded back by the employee if the latter decides to leave or is terminated before the lapse of two years.

Defendant was able to work with plaintiff company following submission and approval of the single permit. The process for the application was taken care of by his employer through a legal firm. Defendant is right to say that there is no contractual relationship between him and the legal firm and that consequently he should not be responsible for the bills issued by the said firm. However, through his signature on his employment contract, he has created a contractual relationship with his employer. Hence, defendant was agreeing and consenting to pay any fees incurred with his single permit application if he leaves the company within 24 months.

The Tribunal points out that according to defendant’s evidence, he was aware and informed that he would have to repay back any fees due for the single permit application if he does not honour clause 5 of his employment contract. Thus, he consented to pay back any fees if the events laid down under clause 5 occurred.

The Tribunal notes that the contract of employment, which was signed voluntarily and freely, binds both parties and therefore they are bound with all the consequences emanating from the said contract. In these circumstances, the Tribunal cannot but accept plaintiff company’s claim since there is no justification to depart from what has been agreed between the parties.

## **Decide**

Considering the above reasons, the Tribunal accepts plaintiff company’s claim and declares that defendant owes money to plaintiff company in the amount of one thousand and thirty cents (Eur 1000.30) and therefore orders defendant to pay plaintiff company the said

amount. The defendant shall also pay all the judicial costs associated with these proceedings together with interests which shall accrue from the 12th October 2023.

**Dr. Duncan Borg Myatt**

Adjudicator