



IN THE SMALL CLAIMS COURT

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

26 February 2024

CASE No: AIFC-C/SCC/2024/0003

(1) Mr. Serik Kusayev  
(2) Mr. Rakhat Bolatov

Claimants

v

Private Company "GEOPS Exploration Kazakhstan Ltd."

Defendant

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JUDGMENT

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Justice of the Court:

Justice Charles Banner KC

**ORDER**

1. **The Claim is allowed.**
2. **The Defendant shall pay the Claimant 1, Mr. Serik Kusayev, 1 653 069 KZT and the Claimant 2, Mr. Rakhat Bolatov, 1 153 069 KZT within 21 days of this Order.**

**JUDGMENT**

1. On 30<sup>th</sup> March 2023, the Claimants entered an agreement (“**the Agreements**”) with the Defendant in resolution of their employment dispute.
2. Under the Agreements, the Defendant was obliged to pay the First Claimant 1,500,000 Tenge before 1<sup>st</sup> August 2023 and the Second Claimant 1,000,000 Tenge by the same date.
3. In bringing the present claim, the Claimants contend that the Defendant did not pay these sums. They also say that on 2<sup>nd</sup> August 2023 they emailed the Defendant requesting the overdue payment. It appears that no response was received.
4. The Defendant has not filed a Defence to the claim or otherwise engaged in these proceedings.
5. The Court is satisfied from the material provided that the Defendant was properly served with the claim.
6. Under Clause 5.2 of each Agreement, disputes arising out of the Agreements fall within the jurisdiction of the AIFC Court. The value of the claim places it within the remit of the AIFC Small Claims Court (“**SCC**”).
7. The Claimants seek default judgment under Part 9 of the AIFC Court Rules, given the Defendant’s failure to file a Defence. However, pursuant to Rule 28.7, Part 9 does not apply to proceedings before the SCC. Accordingly, the Court has proceeded to a final (non-default) judgment.
8. The Court accepts the Claimants’ account of the relevant facts, noting that the Defendant has had ample opportunity to dispute them and has not done so.
9. The Claim is therefore allowed.
10. That leaves the question of costs. Both claimants seek their legal and notary costs associated with having to bring this claim. Under Rule 26.9(2) of the AIFC Court Rules, costs in SCC proceedings may only be awarded against a party who has acted unreasonably. It is well established that where a Defendant’s complete lack of engagement leaves a Claimant with no choice but to bring proceedings before this Court, and where the Defendant then continues to fail to engage once proceedings have been commenced, that is likely to be treated as unreasonable conduct. See most recently Case 45 of 2023, **Alaguzova v. Amantay**, at para. 22, and Case 41 of 2023, **Aurora Minerals Group LLP v. APL Teksan Maden**, at paras. 13-14, and the earlier case-law cited therein. Applying the principles set out there, the Court concludes that in the circumstances of this case, both claimants are entitled to the full costs claimed.

By Order of the Court,



Charles Banner KC,  
Justice, AIFC Small Claims Court



Representation:

The Claimants were represented by Ms. Yulia Davydova, Lawyer of the Karaganda Regional Bar Association, Karaganda region, Republic of Kazakhstan.

The Defendant was not represented.