

**IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES**

**IN THE MATTER OF:**

Heike GAUER

Plaintiff

- and -

LIFE WORKS COUNSELLING SERVICES INC.

Defendant

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**REASONS FOR JUDGMENT  
of the  
HONOURABLE CHIEF JUDGE Brian A. Bruser**

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Heard at: Yellowknife, Northwest Territories  
March 23, 2005 and April 25, 2005

Decision: May 2, 2005

For the Plaintiff: Ms. H. Gauer

Counsel for the Defendant : Mr. W.M. Rouse

[1] The plaintiff, Heike Gauer, is claiming four thousand dollars and costs from the defendant, Life Works Counselling Services Inc. The business of the defendant is primarily to provide counselling services in the City of Yellowknife, Northwest Territories.

[2] A written contract (Exhibit 1) dated August 23, 2004 is the basis for the claim. The contract engaged the services of the "Contractor" (Heike Gauer) "to assist the Office Administrator in the coordination of ... Workshops and to assist in the related ... administration services."

[3] The contract is signed by both parties. I reject the plaintiff's argument that because the defendant signed the agreement after the plaintiff did, perhaps at a later date, the contract is not valid. I find no merit to this argument. The contract meets all the legal criteria for it to be a binding agreement, it was properly signed, it was valid for the purposes contemplated by the parties, and it was binding on both parties as at August 23, 2004, even if the defendant did not actually sign the contract until a later date.

[3] The defendant terminated the contract without notice on October 22, 2004.

[4] Condition 8 of the contract reads:

TERMINATION: Life Works reserves the right to terminate this Agreement at any time before completion for any reason whatsoever. In the event of such termination, Life Works shall pay to the Contractor an amount that in the opinion of Life Works is equal to that portion of the services completed up to the date of the termination. In the event of disagreement, mediation or arbitration services, mutually agreed upon by both parties, will be utilized.

[5] The Defence filed on behalf of Life Works says that the plaintiff has breached the contract by commencing this civil action, in direct contravention of clause 8 of the contract.

[6] The word “disagreement” is used in clause 8. This word is defined in *Black’s Law Dictionary, Sixth Edition*, as a “difference of opinion or want of uniformity or concurrence of views ...”

[7] Not all differences of opinion will lead to litigation. There is nothing in the contract itself, or elsewhere in the evidence, to suggest that litigation could not be resorted to for the purposes of resolving a claim of breach of the contract; a claim of breach of contract goes beyond mere difference of opinion. I conclude that clause 8 does not prevent this Court from hearing the claim. For these reasons the proceedings are properly before the Territorial Court.

[8] Does clause 8 afford a defence because of the way in which the termination provision is worded?

[9] The words “for any reason” are modified by the word “whatsoever.” “Whatsoever” means “at all” and “of any kind:” *The Canadian Oxford Dictionary*. It is my conclusion that clause 8 allowed the defendant to terminate the contract, without notice, so long as it had a “reason.”

[10] The word “reason” is defined in *The Canadian Oxford Dictionary* as: “a motive, cause, or justification.” Any reason will suffice under clause 8 because of the way in which other words wrap around the use of the word “reason.” If Life Works had no reason at all, it would have been in breach of contract for terminating it.

[11] This is not the case. The evidence is strong to the effect that the relationship between the plaintiff and the defendant broke down prior to termination, and that Life Works had good reason for being dissatisfied with the plaintiff’s behaviour under the contract, despite her excellent work in the delivery of some services. Life Works was also concerned, with good reason, about what it perceived to be a breach of confidentiality by the plaintiff prior to termination. For these reasons Life Works terminated the contract, as it was entitled to do according to clause 8.

[12] The plaintiff argues that she is nevertheless entitled to receive more payment for her services. She says that prior to the termination of the contract in October, she worked extra hours for which she was not paid. I do not agree.

[13] Ms. Gauer was to be paid \$2,000.00 per month under the contract. She was paid for the entire month of October, although she did not work the entire month. The defendant was under no obligation to pay the plaintiff any more than the agreed upon monthly amount, other than as provided for in clause 8: "... an amount that in the opinion of Life Works is equal to that portion of the services completed up to the date of termination." In the opinion of Life Works, it complied with this provision. I accept that it properly did so. If Ms. Gauer chose to work extra hours, as she has claimed, to fulfill her part of the agreement, it was of her own choosing. She had no right, under the agreement, to charge extra for extra hours. Nowhere does the written contract contemplate that the plaintiff would be paid any amount other than \$2,000.00 per month. No further payment was required under the terms of the contract and nothing of a verbal nature amended the written contract or otherwise altered it.

[14] The claim is dismissed. The issue of costs and reasonable disbursements, which are awarded to the defendant, is to be addressed in Court upon notice by the defendant to the plaintiff and to this Court. Notice is to be given to the plaintiff of the hearing into the issue of costs and reasonable disbursements no later than 30 days from the filing of this judgment. The hearing may be held later than 30 days from the filing of this judgment, and will be on a Monday, at 9:30 a.m. or as soon thereafter as the Court may hear the matter. The hearing is to be scheduled for a date when I am presiding. Should the defendant fail to comply with the notice provision, it shall be denied any award of costs and disbursements.

Brian A. Bruser  
Chief Judge, T.C.

Dated this 2<sup>nd</sup> day of May, 2005  
at the City of Yellowknife, Northwest Territories