ARBITER

Dr. Deborah Schembri

Sitting held on Monday the 11th March, 2024

Claim No: CCT5/24/DS

Jurijs Dmitrijevs

Vs

Portelli and Brincat Ltd.

The Tribunal

Saw the notice of claim presented by claimant on the 11th January, 2024 where he asked for one thousand two hundred Euro (€1,200) refund for the 50% deposit he paid on an awning which was never delivered as well as expenses.

Saw that the defendant company, duly notified with the notice of hearing as well as the notice of claim, did not file a reply and for this reason was considered contumacious by this Tribunal;

Saw that the company did not even send a representative to the sitting to defend it's position during these proceedings;

Saw all the acts of this case;

Heard the evidence given by the claimant under oath.

Considered

That from the evidence it appears that the claimant confirmed the details of his claim under oath. Since the respondent company neither filed a reply nor sent its representative to to present the company's version of events, the applicant's version is in no way contradicted. In addition, the applicant's version is corroborated by documentary evidence that leaves no doubt in the mind of this Tribunal that the facts happened as it was confirmed under oath.

From the acts of the case it is clearly shown claimant brought enough proof to prove his case including the amount paid as deposit as well as documentary evidence to show that delivery was promised by the vendor after 3 to 4 weeks.

The Tribunal also notes that claimant tried numerous times to contact the defendant company to try and settle the matter, however although he was told month after month that the delivery would happen soon this never materialised. This has caused undue inconvenience to the defendant which this Tribunal cannot ignore.

This Tribunal notes that during his deposition, claimant stated that he was also asking for 8% interest from the date the delivery was supposed to be due however since this claim was not originally asked for this Tribunal cannot take cognisance of this request. What was asked for besides the one thousand two hundred Euro (€1,200) were expenses and not interest.

Additionally considered

That in Subsidiary Legislation 378.01 Consumer Claims Tribunal Rules, Rule 12.1 tghid illi '**If a defendant does not attend for the hearing, the Arbiter may allow the claim against that defendant.;**

Decision

Therefore, for all the reasons mentioned above, after seeing the documents, seeing Chapter 378 of the Laws of Malta, and after considering all the circumstances of the case, this Tribunal considers that the applicant proved his case sufficiently and to the degree required by the law and therefore according to merit and substantive justice as well as according to equity feels that his request should be accepted in its entirety.

For these reasons, the Tribunal decides this case by accepting the request of the claimant and by condemning the respondent company to pay the amount of one thousand two hundred Euros (€1,200) to the plaintiff while releasing the company from the obligation to deliver the awning as well as by condemning the same company

to pay the sum of forty Euros (€40) to the said plaintiff as moral damages for the inconvenience caused to him.

With costs to be borne respondent company.

Deborah Schembri
B.A. (Leg. & Hum. St.)(Melit.),

P.G. Cert. Parental Alienation (IFT-Malta),
M.A. (Bioethics)(Melit.), LL.D. (Melit.),
Adv. Trib. Eccl. Melit.

Arbiter