



MALTA

Fit-Tribunal tal-Konsumatur

Mariana and Mirko Mirev

vs

Top Choice

CCT128/17/MS

9th April 2018

The Tribunal

Having seen the claim filed by plaintiffs on the 11th July 2017 requesting that defendant company pay the amount of €149.00, being the price of an oven bought from defendant company, which oven developed a fault.

Having seen defendant company's reply filed on the 1st September 2017 whereby they refuted the claims brought against them saying that any fault in the oven was due to misuse by plaintiffs.

Having seen the acts of the case and heard the evidence under oath.

Considers

That on the 1st of March 2017 plaintiff bought an oven from defendant company for the price of €149.00. Plaintiff is claiming that after using it about six times the oven ceased to work and was tripping the electricity supply. Plaintiff took the oven for repair and was told by defendant company that because of evident misuse the guarantee was nullified and repairs could not be effected free of charge. Plaintiff does not provide any supporting evidence other than the invoice concerning the sale of the oven, and fails to prove that there was something inherently wrong with the oven.

On the other hand, plaintiff company, whilst acknowledging that the oven was bought from their company, presented a series of photographs that show a lot of oil spillage, rust, food pieces and other dirt stuck to the sides of the oven, supporting their claim that the oven was in a bad state and subject to misuse. These pictures were never contested by plaintiff and



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therefore the Tribunal has no reason to doubt the version put forward by defendant company.

The Tribunal feels that plaintiff failed to bring enough evidence supporting her claim at law, whilst defendant company produced enough evidence to show that on a balance of probability the oven was not taken care of and was misused over a very short period of time.

This evidence causes the Tribunal to rule in favour of defendant company.

For these reasons, the Tribunal dismisses the claim put forward by plaintiffs.

With costs.

A handwritten signature in blue ink, appearing to read 'Michela Spiteri'.

Michela Spiteri LL.D
Arbiter