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Fit-Tribunal tal-Konsumatur

Sharon Louise Gatt

vs

Karen Shaw - Beauty Point Wellness Centre.

CCT 11/17

23rd October 2017

The Tribunal

Having seen plaintiff's application filed on the 13th January 2017 whereby she requested a refund of €411.20 being the price she paid for hair removal treatment which she claims was unsuccessful.

Having seen the reply filed by defendant on 9th February 2017 whereby plaintiff's claims were refuted as unfounded and that plaintiff received all the treatment she has paid for and therefore any dissatisfaction was not fault of the treatment provided.

Having heard the evidence on oath.

Having seen the acts of the case.

Considers.

That in November 2015, plaintiff went to defendant for a consultation on eyebrow microblading. While there, she also inquired about hair removal and decided to book a course of laser treatment after consulting with defendant. The full package for six hours (six sessions) cost €400.00. After the fourth session plaintiff claimed that the treatment was not working and asked if she could change the last two sessions and concentrate the treatment on the chin area that was of particular concern to plaintiff. Unfortunately even though the treatment was performed in its entirety plaintiff was still not happy with the result and defendant offered 2 electrolysis treatments for free, which were too painful for plaintiff to endure and were also unsuccessful. Plaintiff is claiming that she was misled and that defendant should have told her that the treatment does not always work on certain skin types.



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The defendant, on the other hand, acknowledges that plaintiff had in fact booked a complete laser hair removal program for the price of €400.00, which was completed in its entirety. The full body sessions began on the 21st November 2015 and defendant immediately noticed that plaintiff had problems with facial hair. Asked by defendant whether she had any hormonal problems, plaintiff replied in the negative. While defendant insists that she has been in the business of hair removal for 25 years and that she has a very good client base, she also acknowledges that clients differ and that she can never guarantee success because of different circumstances relating to different people.

At any rate, defendant claims that she provided the full service (and even more, free of charge) that plaintiff had contracted and was completely professional throughout these sessions.

Considers

That the legal issues being addressed in this case are those concerning the obligation of defendant as a 'provider of services' and the obligation of plaintiff as recipient of that service. Once the plaintiff identifies the service required and pays the price for the service offered, the plaintiff is entitled to receive the complete service and defendant is obliged to provide the whole service as advertised or agreed upon in a professional manner. The Tribunal finds that in this case both parties performed their obligations: plaintiff paid the amount requested whilst defendant provided the requested service. It so happened that plaintiff was not satisfied with the treatment and she contends that she was misled by false advertisement and promises.

The Tribunal has taken note of the advertisements presented by plaintiff. By plaintiff's own admission, she only became aware of Document B after the treatment and therefore could not have been misled by it and certainly could not have based her decision to book the sessions on this document. Document A, on the other hand, is a generic advert which promotes hair removal and skin rejuvenation. While boasting long lasting results and quick sessions, it also claims to be effective on all skin types and 'virtually pain free'. The Tribunal does not feel that this advert is in any way misleading. 'Virtually' pain free is no guarantee of a 100 percent 'pain free' procedure, especially when considering that the advert is generic and refers to 'hair removal' and not specifically to facial hair removal. While the threshold of pain for some is high, it is much lower for others and some areas are always more sensitive than others, particularly when one has a chronic condition. By plaintiff's own admission, her facial hair was chronic and she had tried everything. Although plaintiff says she was excited at the prospect of having a hair free chin after having been told that everyone who had the treatment was extremely happy, the Tribunal does not feel that this was a realistic expectation on plaintiff's part. Having lived with an acute facial hair problem for years and having tried everything, she certainly could not afford to measure her own success using the yardstick of others, who after all, may not have had the same condition.

That, the Tribunal maintains that even people without significant facial or body hair problems sometimes have to go through repeat sessions before obtaining successful results. Considering plaintiff had lived with this problem for years and knew full well just how severe it was, it would have been perfectly realistic to expect that she may have to repeat the process. It would also appear that the €400.00 was paid for 'full body' and not just for the chin area. This of course means



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that the sessions were not all localised on the chin area but focussed on other areas, making it even more unlikely that the chin area would be completely hair free.

The Tribunal is morally convinced that defendant was professional throughout and even went beyond what was expected of her to try to help her client. The fact that plaintiff was unhappy with the result can in no way be attributed to defendant or the services she offered. Although the Tribunal sympathises with plaintiff's condition, it is clear to the Tribunal that the plaintiff is very emotionally affected by this condition and that this may have affected her judgement and her expectations and also her decision not to proceed further. Having heard the evidence and gone through the acts of the case, Tribunal feels that plaintiff's expectations were unrealistic in the circumstances and that she has no right to claim the money back for the services she received.

For these reasons, the Tribunal refutes the plaintiff's claim. With costs.

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

Michela Spiteri LL.D
Arbiter