

In the Consumer Claims Tribunal.

Application No. CCT G 1/12 (JE).

Michael Leslie and Jean Carbery.

vs

Xlendi Tourist Services Ltd.

Today, the 7<sup>th</sup> day of September 2012.

The Tribunal,

Having seen the application of Michael Leslie and Jean Carbery of 8 March 2012 claiming the sum of € 1,371 as a result of the fact that they had to move to an alternative hotel due to the various shortcomings in an apartment that they had hired from defendant company in Xlendi, Gozo as well as for the fact that they did not make use of the hired car as it carried the company's ad. Plaintiffs also claimed for unused food which they had left behind them in the apartment when they had moved to the St. Patrick's Hotel as well as for the change of flight of return and for the car which they did not make use due to its advertisement.

Having seen the pleas of defendant company that the standards of the apartment was commensurate with the amount paid for and that the complaints about the car are unfounded as are plaintiffs' other complaints.

Having seen the evidence produced by the parties..

Having considered.


The Tribunal is not convinced that plaintiffs have got a case as regards their complaint regarding the apartment. The pictures that have been exhibited Does A to E do not bear out plaintiffs' assertions, bearing in mind that the cost of this apartment for one week was € 179.90. Nor was this claim borne out by the evidence tendered. However, once plaintiffs claimed that they were not satisfied with the apartment that they were provided with, they should have seriously considered one of the alternative options that were made available to them by defendant company. The Tribunal considers as extremely reasonable the option proposed by defendant company of a transfer to the Hotel San Andrea for an additional payment of € 60. Plaintiffs' justification in turning it down on the grounds that no apology was proffered for the state of the apartment is quite weak. Equally incorrect is plaintiffs' assertion that they were not credited for the money they had spent for the apartment. If this were not the case, the requested price for the transfer to the Hotel San Andrea would have been obviously much higher as plaintiffs should have been well aware once they were happy to pay € 374 to stay at the St. Patrick's Hotel for a shorter period. The Tribunal also finds

that the fact that plaintiffs did not inform defendant company that they were turning down its proposals and moving to St Patricks' Hotel as unacceptable.

Equally unacceptable is the claim regarding the hired car which was not used and left in the car park for the duration of plaintiffs' stay. Common standards of civility would have demanded that the car be returned to defendant company if it were not to be used. Unfortunately, this was not the case but plaintiffs are now claiming for its non-use when they were duty bound to minimize any potential damage incurred.

If the Tribunal were to accede to plaintiff's demands, dato sed non concessio, that they are justified, the end result would be that they would have spent a holiday in Gozo at the expense of defendant company. The Tribunal makes it clear that it will not tolerate such an abusive behaviour and if plaintiffs had legitimate complaints, they should have allowed defendant company to right them and not behave in the aforesaid manner. Thus, the Tribunal is finding against plaintiffs and turning down their requests with costs against them.

As the Tribunal considers this claim as having been made in a frivolous and vexatious manner and in a clear abuse of the judicial process, it is fining plaintiffs € 100, which fine can be converted into imprisonment if not paid within 30 days.

  
Av. Joseph Ellis  
Arbiter.