



CCT/310/11/S

Brian u Doreen konjuġi Priest

Vs

John N. Mallia & Son Ltd

Today the <sup>6th</sup> day of February, 2012.

The Tribunal,

Took note of Brian and Doreen spouses Priest's request dated 8<sup>th</sup> of July, 2011 and company John N. Mallia & Son Ltd's reply dated 13<sup>th</sup> of October, 2011;

Took note of all documents submitted by the parties, heard the parties together with their verbal submissions;

Considered

That in a few words plaintiffs' complaint concerns a mattress made from Visco Elastic Memory Foam which developed some mould;

That plaintiff Doreen Priest submitted that she noticed some black spots on the underside of the mattress and on the cover which are a result of dampness;

That Noel Mallia on behalf of respondent company confirmed the need of ventilation in the use of such mattresses;

That the problem seems to emanate from the use of the mattress rather than from a defect in the manufacture;

That dampness and mould are the result of atmospheric conditions and plaintiffs did not prove that this was a result of bad workmanship or a defect in the manufacture of the said mattress;

Consequently for the abovementioned reasons and after considering Chapter 378 of the Laws of Malta and the particular circumstances of the case, the Tribunal Decides to Reject plaintiffs' request and Accepts respondent company's reply, with both parties bearing the expenses for the procedure in front of this Tribunal.

  
Richard Sladden Av.  
Arbiter