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Fit-Tribunal tal-Konsumatur

Bijon Homand

vs

Bajada New Energy Ltd

CCT 52/18/MS

29th August 2018

The Tribunal

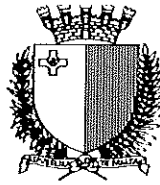
Having seen plaintiff's claim filed on the 27th March 2018 requesting a refund of the sum of €620.00, being the price of an airconditioning unit purchased from defendant company, which unit was defective.

Having seen defendant company's reply of the 24th April 2018 whereby it refuted plaintiff's claim stating that plaintiff had reported a malfunction the first time on 8th August 2016 which was seen to the next day to plaintiff's satisfaction; the second time, on the 17th January 2017 with the issue being rectified on the 19th January 2017 and insisting that there were no other complaints lodged by plaintiff.

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

Considers

That it emerges from the evidence that on the 17th July 2014 plaintiff purchased a HS12 inverter from defendant company. On the 12th December 2016 plaintiff realised that the inverter was not functioning as it should and contacted defendant company. On the 19th January 2017 defendant company sent a technician to see to the fault. The inverter was filled with gas and the problem supposedly addressed. However plaintiff claims that later that same evening the problem persisted. Plaintiff's claims that he contact the offices of defendant company numerous times and each time was promised that a technician would be sent to sort out the issue - but this in vain. Plaintiff is also claiming that once defendant company did not find any problem with the inverter and this is not functioning as expected, it should be replaced.



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That on the other Albino Formosa on behalf of defendant company claims that according to company records a complaint was lodged on the 8th August 2016 and was seen to on the 9th August, where the technician found a broken copper fitting replaced it and filled it with refrigerant. A second complaint was traced to the 17th January 2017 and this was seen to on the 19th January. No further records could be traced according to Formosa. In cross examination however, presented with Document B showing that a call was lodged on the 9th September 2016, Formosa admits that the records may not have been complete or fully functional. An issue also arose as to whether the unit was covered by a guarantee or not with plaintiff insisting that he was not charged for refrigerant on the first occasion when the two year guarantee period had already expired and that the guarantee period was for 3 years, not two.

Considers

That plaintiff's original purchase was for 6 units at a total cost of €3175. However his claim is limited to one unit and the price of €620.00. Defendant company did not dispute the cost of this unit and therefore the Tribunal has no reason to doubt the veracity of this sum.

Plaintiff also claims that originally he had problems with two or three of the units but it was only one unit that remained defective while the other units were seen to and no problem subsisted.

The Tribunal, having heard both versions tends to view plaintiff's version of events as the more probable. He was very methodical in his presentation of the case and his evidence on oath was substantiated by corroborating documents. On the other hand, defendant company proved inconsistent, even in their testimony and were shown to have incomplete and defective records, which further enhanced plaintiff's version.

The Tribunal therefore comes to the conclusion that the inverter was indeed defective and measures taken by defendant company were evidently insufficient to rectify the matter. There is no conceivable reason for plaintiff to call upon the services of defendant company if these were not required in the first place. Furthermore, even from Formosa's evidence he admits that measures were indeed taken on at least two separate occasions confirming the fact that the unit was indeed defective.

For these reasons the Tribunal feels that plaintiff's claim is justified and should be awarded in its entirety, given that the faults arose during the guarantee period.



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The Tribunal therefore accedes to plaintiff's request and orders defendant company to refund plaintiff the sum of €620.00. With costs that are to be borne by defendant company who is also being authorised to take back said unit, once payment is effected.

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

Michela Spiteri LL.D
Arbitru