



MALTA

Fit-Tribunal tal-Konsumatur

Michele Lesley Jenkins

vs

Domestica Ltd

CCT 113/17/MS

8th January 2018

The Tribunal

Having seen the applicant's claim requesting the amount of €100, representing damages caused by employees of Respondent company when they drilled into the bathroom floor without first obtaining clearance from applicant, despite her prior warning to this effect, causing ensuing damage to a water pipe;

Having seen Respondent company's reply denying responsibility claiming that applicant did not indicate where the underlying pipes were.

Having seen that on the day of the hearing, of which both parties were notified, respondent company failed to appear and it was only the applicant who made an appearance.

Having seen that the case was then put off to the 30th October 2017 for respondent company to present its evidence.

Having seen that respondent company once again, failed to appear and the case was then put off for final judgement.

Having seen the records of the case and heard the evidence of applicant.

Considers

That towards the end of November/ beginning December 2016, applicant commissioned respondent company to install a door and a door stopper for a bathroom with a delivery date indicated for 19th January 2017. The door was successfully installed and to the satisfaction of applicant. However applicant had previously informed employees as well as the director



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of respondent company that they shouldn't drill into the tiles without first obtaining clearance from applicant and this in view of the fact that there were water pipes running under the tiles, close to where the door stopper was intended to be placed. Unfortunately, this clearance was never obtained and when the employees drilled the tiles, they hit and burst a water pipe, flooding the entire bathroom and causing great inconvenience and further expenses.

Respondent company is claiming that they were not aware of the pipes in question under the tiles.

Considers

In spite of the objection on the part of respondent company, it did not appear before this Tribunal to confirm its reply and give its version of events under oath. Therefore this Tribunal only has applicant's evidence and supporting documents to go on.

Applicant makes reference to an email exhibited and marked MJ1 dated 17th January 2017 where she alludes to a conversation with a certain 'Chris' about the placing of the door stop to avoid damaging water pipes under the floor. Applicant states that 'it appears you didn't brief them about our conversation

On the 19th January 2017, Chris Vassallo Cesareo replied through another email marked MJ2 claiming that the only conversation that took place concerned the positioning of the door stopper close to the hinges.

In a final reply by applicant also on the 19th January 2017 (Dok MJ2), applicant once again refers to their original conversation regarding the door stopper, which conversation was apparently never relaid to the workmen on site.

Considers

That this Tribunal considers the version given by applicant to be probable. The photos exhibited corroborate her version as do the emails sent a *tempo vergine* exhibited before the Tribunal.

The Tribunal cannot consider any other version that is not confirmed under oath. Thus, based on what applicant is claiming under oath, the Tribunal finds that her claim is justified.



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For these reasons, the Tribunal accedes to applicant's request and orders respondent company to pay applicant the sum of €100.00. With costs.

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

Michela Spiteri LL.D
Arbiter