



**Consumer Claims Tribunal**

**CCT/163/18/B**

Alexander William Thomas Mearns

Vs

Digital Eye - Kevin Sciberras

Today, 15 April, 2019

The Tribunal:

Took cognisance of the Notice of Claim filed by Alexander William Thomas Mearns dated 26<sup>th</sup> October 2018 and that the defendant did not file a Reply;

Examined the documentation filed and heard Claimant give evidence under oath and witnesses produced.

Considered:

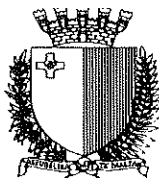
That Claimant explained that defendant was entrusted with photography and videography services on occasion of the marriage of Claimant with his wife. Claimant explained that he never received the final edited product of edited photos, videos, dvd's and digital images.

Primarily, the Tribunal considers pertinent to refer to Subsidiary Legislation 378.01 entitled 'Consumer Claims Tribunal Rules' Rules 4.1 and 4.2 which stipulate:

*4.1 A defendant shall reply to a claim within eighteen days from the date when he is served with the Notice of Claim. If the defendant fails to do so the claimant may, in accordance with rule 6, apply to the Tribunal for a default order against the defendant.*

*4.2 A defendant shall, when replying, complete a Reply to a Claim (Form 2) following the instructions on the form. The Reply to a Claim shall then be filed in the Registry of the Tribunal where the Notice of Claim was originally filed.*

Tribunal considers that the Defendant failed to file a reply, notwithstanding that Defendant was duly notified with the claim and was so served on the 31 October 2018. In



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fact, Defendant even failed to appear before the Tribunal even though he was duly notified of sittings and consequently did not contest the claim raised by Claimant.

That when Claimant gave evidence before this Tribunal explained that he had met Defendant during the Weddings fair and had chosen Defendant's package of photography and videography services for his wedding. The issues with Defendant arose after the celebration of the wedding since Defendant failed to deliver the final edited product (Digital Photo Album) as promised. Claimant explained that on the 9 August 2017 (Dok G1) they had chosen the list of photographs that were supposed to be edited by Defendant within three (3) months. Claimant also explained that Defendant never delivered the final digital wedding book, the CD with all photos in High Resolution, 3 HD DVD's and 24 x 16 Canvas as per contract dated 24 June 2017 (Dok C). Claimant produced numerous documents of attempts to contact Defendant requesting the final product as per the contract of services agreed between the parties including sms', emails and legal letter dated 27 June 2018 requesting Defendant to honour his obligations and deliver the final product. Claimant further confirmed that since Defendant never delivered the final product he filed the present claim before this Tribunal. Claimant explained to the Tribunal that although he had paid the sum of one thousand eight hundred and fifty Euro (€1850) his claim was limited to one thousand and two hundred Euro (€1200) since Defendant did the pre-wedding photography, guest book and attended the wedding.

That Charlot Lanzon, witness produced by Claimant, explained to the Tribunal that he was the videographer during Claimant's wedding and that he had been sub-contracted by Defendant. Witness confirmed that the wedding video had been finalised however, Defendant never paid him and thus he did not deliver the final product to Defendant.

That the Tribunal considers that there is enough evidence to uphold the claim made by Claimant. The Claimant presented all evidence of the payments made to Defendant in terms of the Agreement - Wedding Booking Form (Doc C) and thus, honoured his obligations in terms of the said agreement. It is also evident that Claimant and his wife made numerous attempts to contact Defendant requesting the final product as per their agreement and even though they granted Defendant an extension of six (6) months for the final product to be delivered, Defendant failed to do so. That the claim is limited to €1200 which represents the final digital wedding book, the CD with all photos in High Resolution, 3 HD DVD's and 24 x 16 Canvas, that is the final product as agreed by parties.

That following careful examination of the documents presented and evidence tendered, the Tribunal is convinced that the claimant's claim deserves to be upheld.



Decision

Therefore, for the reasons hereinabove explained, after having seen Chapter 378 of the Laws of Malta as well as the circumstances of the case, the Tribunal decides to uphold claimant's claim and condemns Defendant to pay Claimant the sum of one thousand two hundred Euro (€ 1200).

The Tribunal further orders that Defendant is to pay costs of these proceedings.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Dr. Paul Borg  
Arbiter