TRIBUNAL GHAL TALBIET
TAL-KONSUMATUR

CONSUMER CLAIMS
TRIBUNAL

MALTA

Fit-Tribunal tal-Konsumatur

Kimsy Lynn Agius

vs

Cash Buyers u Jazeer Khan

CCT 212/21/MS

29 ta' Marzu 2023

It-Tribunal

Ra l-avviz tar-rikorrenti pprezentat fl-10 ta' Dicembru 2021 fejn talbet lil dan it-Tribunal jikundanna l-intimat/ azjenda intimata ihallasha/ thallasha l-ammont ta' hamsa u sittin euro (€65.00), prezz ta' *magnetic charger* mixtri minghand l-intimat/ azjenda intimata, liema *charger* kien difettuz u ma kienx tajjeb ghall-uzu li ghalih kien intenzjonat.

Ra illi l-intimat/ azjenda intimata, debitament notikati bl-avviz tat-talba u tas-smigh m'ghamlux risposta u hadd ma deher quddiem dan it-Tribunal meta hekk imsejjah biex jixhed.

Ra l-atti kollha tal-kaz.

Ikkunsidra

Illi rrizulta mill-provi illi fit-23 ta' Gunju 2021, ir-rikorrenti marret ghand Cash Buyers f'Birkirkara biex tixtri magnetic charger ghall-karrozza taghha. Hija tkellmet ma xi hadd jismu Marko u spjegalha kif dan jahdem. Hallset hamsa u sittin euro ghalih izda ma nghatatx ircevuta u lanqas kaxxa, pero' ma tatx kaz ghaliex kienet taf illi kienet qed tixtri oggetti 'second-hand'. Fl-affidvit taghha, ir-rikorrenti qalet hekk:

"I've spent a week testing this charger and 1 hour driving just to test it, it only increased charge by 1%, and when using other apps like google maps it consumes more rather than charging. I went to the Cash Buyers outlet in Sliema and spoke with two persons with whom I've spent an hour explaining and them searching for fault, and came to an agreement that it is faulty. They advised to call a week after so that their boss will be back from abroad to get confirmation from his end to issue money back. When I called them again,

Jazeer Khan, who I understand is the owner of Cash Buyers, said that it was not possible for me to have a refund.
Later I contacted Mr Luke Zammit who at the time worked at Cash Buyers, who confirmed to me that the item that was sold to me was a return item from another customer and was with the faulty returned items and that the item I purchased should have never been sold again. (See Doc B)."

Illi peress ili ma kien hemm l-ebda risposta min-naha tal-intimat/ azjenda intimata u hadd ma deher meta hekk imsejjah, it-Tribunal m'ghandux il-konfort ta' versioni ohra li b'xi mod tikkontrasta dak li qed tghid ir-rikorrenti, li fic-cirkostanzi hija verosimili u anke korroborata minn messaggi. Kif xehdet ir-rikorrenti u anke mill-messaggi skambjati bejn ir-rikorrenti u Luke Zammit, jidher car illi dan ic-charger ma missu qatt inbiegh lir-rikorrent ghaliex kien diga *return item* u bil-hsara.

It-Tribunal ghalhekk jidhirlu illi r-rikorrenti ippruvat l-istanza taghha sal-grad li trid il-ligi u li t-talba taghha ghandha tigi milqugha.

Ghal dawn il-motivi, it-Tribunal jaqta' u jiddeciedi illi jilqa' t-talba tar-rikorrenti u jikundanna l-intimat/ azjenda intimata în solidum bejniethom, jirrifondulha s-somma ta' hamsa u sittin euro (€65.00) minnha inhallas. Bl-ispejjes kontra l-istess intimat/ azjenda intimata.

Michela Spiteri LL.D.

Arbitru