Michelle Spiteri

vs

Silvio Buttigieg - X-Treme Technologies

CCT G8/20/MS

9 ta' Awwissu 2023

It-Tribunal

Ra l-avviz tar-rikorrenti pprezentat fit-30 ta' Settembru 2020 fejn talbet lil dan it-Tribunal jordna lill-imputat/ azjenda intimata jaghtiha *air-conditoner unit* gdid, jew ihallasha s-somma ta' disa' mitt euro (€900.00), u dan wara li hija xtrat airconditioning unit 1800 btu minghand l-intimat/ azjenda intimata b'hames snin garanzija, liema unit zviluppa diffett fil-perjodu tal-garanzija, liema difett ma setax jitranga nonostante diversi tentattivi ta' tiswija min-naha tal-intimat/ azjenda intimata.

Ra r-risposta tal-intimat/ azjenda intimata fejn cahad it-taba tar-rikorrenti bhala infondata fil-fatt u fid-dritt u ecepixxa illi tiswijiet u /jew tindif/ iccekjar ta' gas jew ghoti ta' gas gdid/ sinjali ta' corrosion mhumiex koperti mill-garanzija' u di piu, r-rikorrenti ma kenitx zammet mal-kundizzjonijiet imposti fuqha u ma ffirmatx il-*maintenance agreement t*al-kumpanija; illi l-ilmenti kollha tar-rikorrenti kienu jikkoncernaw tindif tal-filters, l-ghoti tal-gas u sinjali ta' corrosion li mhumiex koperti bil-garanzija; qal ukoll illi kienu lahqu ftehim biex hi thallas tal-gas biss, pero' r-rikorrenti marret lura minn kelmtha u ma zammitx mal-kundizzjoni maqbula.

Ra r-rapport tal-perit Ing. Charles Yousif.

Ra l-atti kollha tal-kawza.

Sema' x-xiehda bil-gurament.

Ikkunsidra

Illi rrizulta mill-provi illi f'Mejju 2016 ir-rikorrenti xtrat airconditioner 18,000 btu minghand l-azjenda intimata/l- intimat li kien kopert b'hames snin garanzija ghall-prezz ta' €900.00. Skond dak li xehdet ir-rikorrenti, xi sentejn u nofs wara, lejn l-ahhar tal-2018, il-unit beda bil-problemi u ma bediex ikessah bizzejjed. Ir-rikorrenti marret ghand l-azjenda intimata u ghall-ewwel wahlu fil-kamra u qalulha li kienet kbira, u dan nonostante l-fatt li originarjament huma kienu qalulha li 18,000 btu kien bizzejjed ghall-kamra ta' dak il-qies.

L-ewwel darba li gew ghandha kien fis-sena 2019, wara s-shut down tal-Milied u kien tnaddaf il-filter u ra li ma kienx qed ikessah u l-gauge tal-gas kien baxx. Kienu tawh gas pero' din grat darbtejn ohra u regghu tawh gas f'Mejju qabel is-Sajf. F'Dicembru 2019 ma

bediex isahhan u kull darba kienet tistenna sakemm jigu sakemm fl-ahhar irrikorriet ghal dawn il-proceduri.

Pero' il-haddiem rega' gie f'Jannar 2020 umbaghad ma regax gie bejn Jannar u Marzu. Meta bdiet il-pandemija wara Marzu 2020, ir-rikorrenti ma reditux jigi ghaliex kellha ommha anzjana, pero' rega' gie darb'ohra meta l-affarijiet ikkalmaw u baghat technician u biddel xi part, pero' l-affarijiet baqghu l-istess. Fil-fatt it-technician kien ikkonstata xi corrosion u gas leakage, u qallha li l-gas ma jaqax taht il-garanzija. Dak iz-zmien kienet lesta li thallas ghall-gas, basta li jtiha l-garanzija li ma jergax jigri l-istess, pero' ma waslux fi ftehim u kellha tixtri airconditioner iehor tal-istess tip.

Xehed ukoll l-intimat Silvio Buttigieg li kkonferma li 18,000 btu huwa bizzejjed ghal qies tal-kamra u li hu kien mar ghand is-sinjura tliet darbiet. L-ewwel darba li marru sabu li l-AC ma kenitx mizmum f'kundizzjoni tajba u kienu naddfu l-filter u anke r-radiator. Dakinhar ir-rikorrenti hallset €25.00 maintenance fee. Fis-sena 2019 rega' mar ghandha u sab li ma kienx qed ikessah. Skond l-intimat, jekk AC kun nieqes minn gas, dan mhux ser ikessah. Skond l-istess garanzija dan mhuwiex kopert meta jkun hemm sinjali ta' *corrosion jew wear and tear of parts caused by excessive overload.* L-intimat argumenta li, li kieku kien hemm diffett latenti, dan kien johrog mal-ewwel u mhux wara sentejn u nofs jew tlieta.

Ikkunsidra

Illi permezz ta' din il-kawza, ir-rikorrenti qed titlob li tinghata flusha lura tal-prezz li hallset ghall-airconditioner 18,000 btu mixtri minghand l-azjenda intimata, liema AC zviluppa hsarat fil-perjodu tal-garanzija. Min-naha tieghu, l-intimat qieghed jichad it-talba tar-rikorrenti, ghaliex skond hu, id-difett ma kienx wiehed latenti izda difett illi zviluppa minhabba nuqqas ta' manutenzjoni li ghalhekk mhuwiex kopert bil-garanzija.

Ikkunsidra

Illi t-Tribunal ghandu quddiemu rapport tal-perit Ing. Charles Yousif, li sema' l-partijiet u organizza laqgha virtwali biex jikkonstata l-istat tal-airconditioner. Din il-laqgha saret fit-12 ta' Awwissu 2021 u damet siegha.

Illi l-espert Ing. wasal ghal konkluzjoni li hemm zewg soluzzjonijiet li jistghu jigu kkunsidrati wara li ghamel is-segwenti osservazzjonijiet:

1. From a technical point of view, while cleaning up can improving the delivery of conditioned air, it is not sufficiently convincing that a dirty air-conditioner will become faulty to the extent that it does not heat up or cool down.

2. In December 2019, the air conditioner failed again, this time due to low gas pressure as confirmed by the installer. A strong indication of gas leakage can be inferred from the consumer's report when she stated that 'water seeped out from the indoor unit when it was opened.' When gas pressure is lower than normal, ice forms on the pipes of the indoor unit and this eventually melts and leaks out.

From a technical point of view, it is confirmed that the air conditioner had low gas pressure and was topped up. However there is no indication whatsoever that the installer had carried out appropriate inspection to identify the source of the leakage and remedy it. As a result the air conditioner developed the same issue in July 2020.

3. The air-conditioner developed a number of other faults such as the indoor temperature sensor, which had to be ordered and replaced. However, the whole process, from the time of identifying the fault until replacing was quite long. The sensor was covered by the guarantee.
From a technical point of view, the long time taken to order and install this component has not been credibly justified.
From a technical point of view .. a proper inspection of the source of the gas leakage should have been carried out in the previous inspection in January 2020 and appropriately remedied which does not seem to be the case. Therefore, for this second gas refill and maintenance, the consumer should not be required to pay for the expense.

4. The client has failed to consistently abide by the conditions set in the 5-year guarantee. Notwithstanding it is not technically convincing that that lack of cleaning of filters and indoor unit can cause damage to the air-conditioner such as failed sensor or leaking gas, as claimed by the installer. The guarantee seems to be tied with a number of pre-conditions such as annual maintenance chargeable to the consumer.
From a technical point of view, it is not mainstream that air conditioner guarantees are tied up with pre-conditioning of the consumer to carry out annual maintenance by the installer, even though this is recommended to ensure that the air conditioner is free from dangerous legionella bacteria and to deliver highest efficiency.

Conclusion:
Based on the facts presented, it is clear that:
1. The air-conditioner is not beyond repair;
2. The installer did not always provide the expected level of maintenance and service, resulting in repeated visits and delays.

Fid-dawl ta' dawn l-osservazzjonijiet u konkluzjonijiet, l-Ing. ippropona li jew l-airconditioner jigi msewwi, jew inkella li r-rikorrenti tinghata lura rifuzjoni pro-rata.

Ikkunsidra

Illi apparti l-fatt illi ma ngabx prova tekniku ulterjuri li b'xi mod teghleb il-konluzjonijiet tar-rapport, it-Tribunal jaqbel pjenament mal-argumentazzjoni u l-konluzjonijiet li wasal ghalihom il-perit u qed jaghmilhom tieghu.

Illi jibda biex jinghad, illi l-ewwel ilment sar lejn l-ahhar tas-sena 2018 u din il-kawza giet istitwita kwazi sentejn wara, f'Settembru 2020. Dan ifisser, kwindi, illi r-rikorrenti tat l-

intimat diverşi opportunitajiet biex isewwi l-airconditioner, u jekk ried, l-intimat kellu bizzejjed zmien biex jaghmel it-tiswijiet necessarji. Ghalhekk, fic-cirkostanzi, r-rikorrenti ma kellhiex ghazla ohra hlief li tixtri air-conditioner ohra u din inxtrat f'Mejju 2021. Ghalhekk it-Tribunal jidhirlu li r-rikorrenti kienet gustifikata illi tixtri air-conditioner iehor fic-cirkostanzi u mhemmx lok iktar ghat-tiswija tal-airconditioner mertu tal-kaz.

Ghalhekk, fic-cirkonstanzi, it-Tribunal mhuwiex ha jikkunsidra l-ewwel soluzzjoni, peress illi kif spjegat, mhemmx aktar lok li l-airconditioner jigi msewwi.

Ghal dak li hija t-tieni soluzioni, l-Ing. qed jirrakomanda illi l-air conditioner jigi *scrapped* u r-rikorrenti tinghata rifuzjoni pro-rata ibbazata fuq tnaqqis tal-valur matul il-perjodu tal-garanzija u cioe' 20 % kull sena ghal hames snin. 900/5 = 180. Tenut kont illi r-rikorrenti uzat l-airconditioner ghall-perjodu ta' kwazi tlett snin, huwa ikkalkula illi ghandha tiehu l-ammont ta' €310, li huwa 180 x 2 snin + 360 - 50 Euro (spejjes ghall-gas u manteniment).

Illi ghalkemm jidher illi fil-fatt, ir-rikorrenti hallset €54.00 mal-installazzjoni u allura hallset €954.00 u mhux €900.00, (ara Dok MS1), it-Tribunal jidhirlu li f'dan l-istadju m'ghandux ivarja l-ammont propost mill-perit Ing. Yousif, li huwa ragonevoli u gust u bbazat fuq it-talba originali tar-rikorrenti fl-avviz taghha.

Ghal dawn il-motivi, jaqta' u jiddeciedi illi jilqa' parzjalment it-talba tar-rikorrenti u jordna l-intimat/ azjenda intimata tirrifondilha s-somma ta' tlett mija u ghaxar euro (€310.00). Bi dritt tal-intimat/ azjenda intimata illi jiehdu lura l-airconditioner wara li jsir id-debitu hlas.

Michela Spiteri LL.D.
Arbitru