



CCT/98/20/S

Yana Zammit

vs

Frank Borda Ltd

Today 16/11/23 November, 2023.

The Tribunal,

Took cognisance of the request filed by Yana Zammit on the 31st July 2020 and the reply filed by the company Frank Borda Ltd on the 2nd October 2020.

Examined the presented documents together with the written submissions and heard the parties and their witnesses.

Considered

That plaintiff is suing defendant company for the price of a freezer which she bought from defendant company and which according to her was developing frost.

That defendant company argued that the freezer did not develop any frost whatsoever even when left to work for a considerable period of time at the defendant company's premises.

That the preliminary pleas put forward by defendant company were all superseded.

That from the acts, plaintiff only started mentioning the cooling off period during these proceedings as she had accepted that a technician be sent by defendant company,

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which in fact took place, and the latter found no defect in the freezer.

That from the evidence tendered in front of this Tribunal it transpires that there is no proof presented by plaintiff that the freezer was actually defective and plausible reasons were given by defendant company as to why frost was being formed.

That from the acts it transpires as well that plaintiff was using the freezer for her business in baking cakes which entailed in the frequent opening of the said freezer which could have led to the formation of frost.

That this freezer was sold for household and domestic use. Even the technician Victor Bellia confirmed on oath that according to him *"Whenever there is warm air trapped between the food and the cling film, condensation would form however there is no defect with the freezer..."* This technician also confirmed that the freezer was taken to the premises of defendant company and during the testing, no defect was found in the said freezer.

That in the absence of such proof as to the allegations put forward by plaintiff, her claim was not proven and therefore her request is being rejected.

Consequently for the above mentioned reasons and the circumstances of this case and after examining Chapter 378 of the Laws of Malta, this Tribunal decides to reject the claim put forward by Yana Zammit and accepts the pleas submitted by Frank Bord Ltd as aforesaid. Each party is to bear the respective expenses of these procedures.

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Dr Richard Sladden.
Arbiter