



Fit-Tribunal tal-Konsumatur

Rasa Varniene

Vs

Dune London Malta Shop

CCT 129/22/MM

Today, 4th December 2023

The Tribunal,

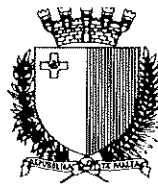
Having seen the claim filed by the plaintiff on the 13th of September 2022 whereby the sum of Euro 59.50 (for the purchase of faulty shoes), Euro 500 (moral damages) and Euro 9.50 (fees) is being claimed.

Having seen the reply filed by the defendant dated 23rd of January 2023 whereby in a preliminary manner it was noted that there is no company named Dune London Malta Shop but Charichelon Company Limited and without prejudice, the case was contested at fact and at law.

Having seen the documents files and the evidence tendered on oath.

Having seen the records of the case.

Considers.



MALTA

That this case concerns a claim for refund of a shoes bought from the defendant as represented by the company Charichelon Company Limited which resulted to be defective as well as a claim for moral damages amounting to Euro 500 as well as fees disbursed.

That before the Tribunal during the sitting dated 7th February 2023 the defendant, through its legal representative, offered the plaintiff to either repair the shoes, replace the shoes or else issue a credit note for the amount of Euro 59.50 (the amount of the shoes) which offers were already made to the plaintiff before the filing of the claim by the plaintiff.

The plaintiff declined such offers insisting that a refund should be issued.

Considers.

That the Tribunal will not go into the merits of the preliminary plea raised by the defendant given that such plea was tacitly waived by the defendant in its offer declared in front of the Tribunal.

Thus, in view of the above, the Tribunal will proceed to determine the case on its merit.

That the Consumer Affairs Act provides as a remedy in case of non-conformity of goods sold to the consumer: (i) either to have the goods brought into conformity through replacement or repair, (ii) or to receive a proportionate reduction in price. The remedy of termination of the contract is subject to the conditions established in articles 74 and 75 of the same Act.

The defendant acknowledged the defect, even prior to the institution of the claim before the Tribunal and offered all of the above remedies according to law. This was also confirmed under oath by the plaintiff.



MALTA

DECIDE

In view of the above reasons, the Tribunal orders Charichelon Company Limited in representation of Dune London Malta Shop to either replace, repair or issue a credit note to the plaintiff limitedly in the amount of Euro 59.50. The Tribunal rejects the claim for moral damages on the basis of unfounded evidence.

With costs against the plaintiff.


Dr. Martha Mifsud LL.D.