

Consumer Claims Tribunal

Susan Basford

vs

Tabone Glass Ltd

CCT G14/21/MS

12 October 2022

The Tribunal

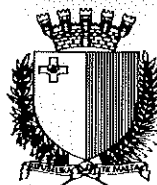
Having seen the notice of claim filed by plaintiff on 6 November 2021 requesting a refund of €360.00 following the supply and installation of a glass shower door, which door was not measured correctly and consequently was not fit for purpose.

Having seen the reply filed by defendant company refuting the plaintiffs claims in fact and at law, insisting that the works were installed to the satisfaction of the claimant who was present throughout and that this was not a case of bad or poor quality workmanship.

Having seen the acts of the case and heard the evidence under oath.

Considers

That from the evidence presented, it emerged that claimant and her husband engaged the services of defendant company to carry out some bathroom works at their home. Defendant company were engaged to fix a shower door panel and two glass shelves. A tile was chipped in the process but plaintiff accepted an apology and an amicable solution was reached for a set-off with some other works. In fact, on completion of this job, they decided to fix a shower glass door. The door was ordered early 2021 and when it was fitted it was 2 inches too high and could not be fitted in the opening. A new glass door was ordered and eventually installed in July 2021 and was fitted by the owner's son. The plaintiff was not present during the installation but paid the full amount agreed upon. Afterwards, upon inspection, plaintiff noticed that the glass door was far too small for the opening and she called the company immediately and explained that the door was too small, would not close shut and swung both ways. It did not match the height of the fixed shower glass and was too small both in terms of height and width. Despite her doubts and misgivings, she agreed to try to remedy the situation with a plastics strip to fix the gap and was advised that this would have to be brought over from Malta and would take a few days. A week later she visited the premises and was told that the owner was in Malta only to discover that he was in fact in Gozo. Eventually, a meeting was arranged on site and both the owner and his son were present.



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Plaintiff tried to explain the situation - i.e. that the door dimensions were too small but defendant became very agitated and angry and stormed out of the premises. Plaintiff states that she tried to reach an amicable solution and visited defendant company several times a week over several month and called their offices on several occasions but was either ignored, shouted at, lied to or bullied. Eventually, when threatened with court action, owner agreed to refund the money and remove the door. However, since coming to an agreement, he has since ignored plaintiffs calls and did not show up to any agreed appointment.

Plaintiffs husband also testified and stated that he was present for the first installation when one of the bathroom tiles was cracked because a hammer drill was used instead of a rotary drill but that he had agreed to let the matter go. When measurements were taken for the glass shower door, Tabone's son took the measurements and first time round, the door was too high. Second time round, the door was too small and although they tried to find a solution, this was inadequate and the gap persisted. He confirmed that they paid the sum of €360.00 for the door and expected a professional job

That defendant Saviour Tabone confirmed that plaintiffs had engaged the services of the company to do some bathroom works. His son was assisting with these works. Tabone confirmed that the first door was too big and had to be returned and a new door was then ordered. He also confirmed that a tile was broken in the process and that plaintiffs were compensated for this tile and given €30.00. The new door was installed and his son and assistant were present. He states that although he was not present his son told him that they were happy with the works and that they paid him the full amount on site. He also states that the gap was acceptable according to standards practice but also suggested placing a piece of rubber to remedy the situation.

Considers

That plaintiff is asking for a refund of the amount paid for a door, which was not measured correctly and consequently was not fit for the purpose it was intended. Despite the fact that defendant company are contesting the claim, defendant's testimony is mostly based on hearsay evidence since the person who was responsible for installing and measuring the works was not brought to testify.

Having heard the evidence of all parties and seen the acts of the case, the Tribunal believes that plaintiff's version is far more credible. The fact that plaintiff was not present for the installation and paid the full amount without actually checking the work is quite plausible in the circumstances, given their previous working relationship. Still, that should not prejudice her right to complain which was done immediately and on the same day. That there was in fact a gap is not in dispute. This was even confirmed by defendant Saviour Tabone, although the latter insists that the gap was acceptable and according to standard practice.

Having seen the pictures exhibited and heard the evidence, the Tribunal is satisfied that the gap exceeds the maximum tolerance according to standard trade practice and that the shower door was in fact too small and was measured incorrectly.



For these reasons, the Tribunal accedes to plaintiff's claim and orders defendant company to refund plaintiff the sum of €360.00 saving defendant company's right to remove the shower glass door in question and take possession thereof. With costs that are to be borne by defendant company.

A handwritten signature in blue ink, appearing to read 'Michela Spiteri'.

Michela Spiteri LL.D
Arbiter