

**Small Claims Tribunal  
(Gozo)**

**Adjudicator Dr. Kevin Mompalao**

**Sitting of the 28<sup>th</sup> April, 2016**

**Claim Number 5/2016**

**Margaret Onanda Constance York**

**Vs**

**Simon Gatt for and on behalf of  
Unique Holidays Limited.**

The Tribunal;

Having seen the claim of the plaintiff in which the same are claiming that the defendant be condemned to pay her the sum of two thousand six hundred and sixty Euro (€ 2260) as refund for prepaid rent covering months October 2015 till April 2016 and also as refund for deposit paid. This following a lease agreement entered into between the parties.

Having seen the answer presented by the defendant, in which by virtue of the second plea the defendant is pleading the lack of competence of this Tribunal to hear and decided this case, since the relative competence vests in the Rent Regulation Board.

Having heard all the evidence tendered by the parties and seen all the documents submitted by the parties.

Having seen its decree of the 15<sup>th</sup> April 2016 whereby it was decreed that the case be adjourned for judgment on the second plea.

Considers

That there is an issue whether the lease is still ongoing or whether it has been terminated. The lease agreement exhibited dated the 1<sup>st</sup> May 2015 provides that the first year shall be di fermo. There were some issues between the parties as a result of

which the plaintiff vacated the property. From the other end defendant insists that the lease is still ongoing. As a consequence the plaintiff is asking for a refund of part of what she has paid. The issue which therefore this tribunal is questioned to decide is whether there still exists a lease or not, or whether the plaintiff was justified in terminating the lease.

This Tribunal after having seen Article 1525 of the Civil Code and also Article 16 (4) of chapter 69 of the laws of Malta, does not consider that it is vested with the legal competency to decide these issues itself. This has been confirmed by jurisprudence namely Trevor Buttigieg va Martin John Easby et ( Appeal 16/12/2015) and Salvatore Bartolo et vs Anthony Degura et (Appeal 16/12/2015)

Thus in the circumstances of this case, this Tribunal upholds the second plea of the defendant and declares itself not competent to hear this case. The relative costs of this case are to be bourn by the plaintiff.

Kevin Mompalao

Adjudicator

Daniel Sacco

D/Registrar