



SMALL CLAIMS TRIBUNAL

**ADJUDICATOR
DR. NADIA H. VELLA**

Sitting of 14 July 2016

Claim Number: 652/15NHV
Number on the List: 6

Ronald Abdilla
I.D. 21677(G)

vs

Andrew Jeffrey Morse
I.D. 53978(A)

and

Nina Vasilivna Morse
I.D. 102245(A)

The Tribunal

Having seen the **Notice of Claim**, filed on 11 August 2015, whereby the plaintiff requested the defendants to pay the sum of three thousand one hundred and sixty three euro and eighty four cents (€3163.84) as follows:

1. The sum of one thousand four hundred and ninety-nine Euro and forty Euro cents (€1,499.40) representing an amount due for damages caused by the respondent Andrew Jeffrey Morse in the penthouse number nine (9), Harmony Court, Gardiel Street, Marsascala, property of the applicant, whilst the respondents were occupying same penthouse under title of lease (lease agreement attached and marked **Dok. RA1**), quotations/invoices/receipts which indicate the major part of expenses disbursed by applicant for the reparation of same damages, attached and marked **Dok. RA2 - RA6** and photos indicating some of the damages – **Dok. RA7 – RA12**); and
2. The sum of three hundred Euro (€300) representing an amount disbursed by the applicant for the painting of same penthouse (quotation attached and marked **Dok. RA13**), which painting was occasioned by defendants' lack of maintenance of the penthouse during the period when they used to occupy it under title of lease;
3. The sum of nine hundred forty-four Euro and forty-four Euro cents (€944.44) representing a balance due on arrears for water and electricity consumed in the penthouse in question for the period during which it was occupied by the respondents or whoever of them (printout from ARMS Ltd's electronic site (**Dok. RA14**) which indicates water and electricity consumption in the penthouse in question by respondents, during the lease period, which consumption amounted to one thousand four hundred and nineteen Euro and thirty-four Euro cents (€1,419.34), from which sum the amount of four hundred seventy-four Euro and ninety Euro cents (€474.90) was paid;
4. The amount of four hundred and twenty Euro (€420) representing one months' rent of the penthouse *de quo*, which the applicant failed to receive, since after the respondents' lease terminated, the applicant could not lease the penthouse for such a period, because of the aforementioned damages;

which together amount to the global sum of three thousand one hundred and sixty-three Euro and eighty-four Euro cents (€3,163.84).

With costs against the respondents, including those of the precautionary garnishee order which was filed contextually with the present claim and

with legal interests from the date of the present claim till the date of effective payment, who are from now being referred to the oath.

Having seen the **REPLY of the Defendants**, presented on 12 October 2015, whereby the following pleas were raised:

1. That the plaintiff claims are unfounded both in fact and at law and should be rejected,
2. That the damages allegedly caused to the premises are simple wear and tear and/or due to force majeure and are not therefore the defendant's responsibility and this as per both article 1559 of Chapter 16 of the Laws of Malta and Clause 6.1 of the lease agreement.
3. In addition as per clause 6.1 of the lease agreement the damages claimed by the plaintiff are his responsibility since they exceed €100
4. That the defendant paid all his pending water and electricity dues while he was registered on the premises and the arrears calculated by the plaintiff are the eco-reduction due.
5. That the claim for arrears in water and electricity is the fruit of an illicit cause and must therefore be rejected by this Tribunal.
6. The plaintiff cannot claim payment of rent once he has accepted the keys of the premises and therefore the lease has been terminated.
7. Without prejudice to the above the defendant already paid a deposit of €420 to the plaintiff at the beginning of the lease and this deposit was not returned.

With costs against the plaintiff who is being summoned with reference to oath.

Having seen the note of reduction, filed on 9 June 2016, whereby the plaintiff's claim was reduced by €420, representing the deposit originally paid by the defendants to the

plaintiff, therefore making the claim amount to the sum of two thousand seven hundred and forty three euro and eighty four cents (€2743.84)

Having seen all the documents exhibited;

Having heard the parties giving evidence under oath;

Having heard the oral final submissions made by the parties' defendants;

Having seen that the case was adjourned for judgement to be pronounced in today's sitting;

Having seen Article 9.(2)(d) of Chapter 380 of the Laws of Malta;

Considerations

The Tribunal is hereby acceding to the following requests made by the plaintiff:

€944.44 due as balance for water and electricity bills – having considered that the bill calculator¹ exhibited has the correct dates and figures including the number of persons residing in the apartment, and that the amount paid by the defendants directly to ARMS Limited has been duly deducted.

€396.00 – due for damages in the main door, which damages were undoubtedly caused by the defendant Andrew Morse;

€125.00 – due for damages in the lock of the main door;

€280.00 – due for damages to the awning, having considered that it is common knowledge that such awnings are not to be opened on windy days;

€60.00 – due for the fixing of the new awning;

€420.00 – representing loss of profit i.e. one month's lease, having considered that the penthouse could not be rented out immediately to new tenants immediately upon its vacation by the defendants, due to the damages caused to the main door and lock;

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Other damages claimed by the plaintiff have not been sufficiently proved to be the responsibility of the defendants or are the result of fair wear and tear.

Therefore the amount to be reimbursed by the defendants to the plaintiff, amounts to the global sum of €2225.44, from which amount the sum of €420.00 is to be deducted, representing the deposit paid by the defendants to the plaintiff at the commencement of the lease.

Decides

Having duly made its considerations, the Tribunal hereby decides this case by acceding to the plaintiff's request but only as limited to the sum of one thousand eight hundred and five euro and forty four cents (€1805.44) and condemns the defendants in solidum to pay the plaintiff the said sum of one thousand eight hundred and five euro and forty four cents (€1805.44), with legal interest accruing from the date of the present decision to the date when payment is effected.

The cost of this case, including the cost of any precautionary garnishee order issued in the same names, will be paid by the defendants in solidum.

Dr. Nadia H. Vella

Adjudicator