

**European Small Claims Procedure**

**Adjudicator Dr. Kevin Mompalao**

**Claim Number 28/2016**

**Charlie Christ Abela**

**Vs**

**Purr Herr**

Sitting of the 15<sup>th</sup> November 2016

The Tribunal;

Having seen the claim of the plaintiff presented according to Form A, in which he is claiming the amount of two hundred and thirty Euro and ten cents (€ 230.10) without interests and together with the costs, which sum is due to him by way of damages after defendant sold to him a defective turbo.

Having seen the answer filed by the defendant by electronic mail wherein he alleged that the plaintiff did not exercise his warranty rights properly since he commissioned the repair to his preferred garage and not to defendant.

Having seen all the documents and emails submitted by the parties.

Having seen the submissions presented by the plaintiffs.

Having seen all its decrees including the decree of the eighteenth (18<sup>th</sup>) October, two thousand and sixteen (2016) by which the case was left for judgment for today.

Considers

That from the acts of the case it appears that this turbo was in fact defective. The defendant does not deny that it was not defective but rather defends himself by stating that the warranty was lost since the equipment was not mended by him but by other people locally.

From the acts of the case it results that originally this equipment was in fact sent to the defendant but plaintiff was advised by defendant that in order to assess the fault the equipment had to be broken and if nothing wrong was found the plaintiff would lose the warranty.

This was not a legal solution, more and more since it resulted that the apparatus could be repaired without breaking it, as in fact happened. So defendant was justified in refusing this offer by defendant.

Eventually it resulted that the turbo was defective and that it was eventually repaired at the cost of two hundred and thirty Euro ten cents (€ 230.10).

This turbo had a two year warranty, and the defects appeared during the warranty period.

The amount claimed appears to be justified

For these reasons this Tribunal considers plaintiffs claims to be justified.

Therefore this Tribunal decides this case by acceding to plaintiff's requests, rejects defendant's pleas, and orders defendant to pay plaintiff the sum of two hundred and thirty Euro and ten cents; together with all the costs of this case.

Kevin Mompalao

Adjudicator

Daniel Sacco

D/Registrar