

Rent Regulation Board

Magistrate Dr Josette Demicoli LL.D

Francis Xuereb

(456458(M))

vs

Patrick Hunout

Application Number: 88/16JD

Today 19th July 2017

The Board,

Having seen Francis Xuereb's application which reads:

That the applicant has leased to the respondent the apartment numbered three (3) forming part of the building block known as 'Bajja Apartments' and is externally numbered one hundred and eighteen (118) in Xemxija Hill, Xemxija, and this against the payment of rent amounting to five hundred Euro (€500) per month payable on the ninth day of each month, and subject to the other terms and conditions stipulated by virtue of the private writing dated twenty-fourth (24th) April of the year two thousand and fifteen (2015). A copy of this private writing is being attached to the present and is being marked with the letter 'A'.

That the lease granted to the respondent expires on the twenty-fourth (24th) October of the year two thousand and sixteen (2016).

That the respondent has breached the conditions of the lease by omitting the punctual payment of the lease for various times, and remained so in default notwithstanding that he was duly called upon by

means of a judicial letter, a legal copy of which is hereby attached and marked with the letter 'B'.

That the respondent also failed to pay that which was due by him in connection with the service and consumption of electricity and water to the apartment rented to him.

That these are the reasons why this application is being filed.

Therefore the applicant humbly requests this Board to:

- (1)decide and declare that the respondent breached the conditions of the lease agreement dated twenty-fourth (24th) April of the year two thousand and fifteen (2015);
- (2)declare that the lease agreement dated twenty-fourth (24th) April of the year two thousand and fifteen (2015) is terminated and dissolves;
- (3)orders the respondent to vacate the apartment numbered three (3) forming part of the building block known as 'Bajja Apartments' and is externally numbered one hundred and eighteen (118) in Xemxija Hill, Xemxija, in a short and peremptory period which is imposed on him;
- (4)declares that the respondent is a debtor of the applicant in an amount which consists of rent, costs relative to the consumption and service of electricity and water, as well as compensation for abusive occupation by the respondent of the apartment rented to him;
- (5)liquidate the amounts due by the respondent to the applicant, if necessary by means of the appointment of experts;
- (6)condemns the respondent to pay the liquidated amount to the applicant, with interest according to law.

With costs, including those of the judicial letter numbered 1649/2016, of the garnishee order numbered 1178/2016 and of the warrant of seizure numbered 1180/2016 against the respondent, who is called to reference by his oath.

Having seen the respondent's reply:

1. In the first case the respondent humbly submits that this Board is not the competent Court to decide this court case but it is the First Hall Civil Court as there is no rent agreement in existence.
2. The amount allegedly due is not established and this has to be established.

Having seen the acts and documents of this case.

Considers:

Briefly the facts of this case as resulting from the acts of this case are the following:

- Francis Xuereb leased to the respondent the apartment situated at Bajja Apartments in Xemxija.
- A lease agreement was entered into on the 24th April 2015. The start date of the lease was on the 5th May 2015 and the duration period was 18 months.
- This case was filed on the 16th September 2016.
- The basis of the case in question is that applicant is alleging that respondent has not paid the rent due on time, that respondent has failed to pay the utility bills as it was agreed upon and moreover applicant is asking the Board to condemn respondent to pay an amount due to abusive occupation of said premises.
- In actual fact the lease has now expired.
- Applicant Francis Xuereb testified¹ that defendant was always a bad payer. However, on the 5th March 2016 the tenant stopped paying rent. Applicant stated that he used to call defendant who requested some time because he was not working. Defendant is still occupying in the premises notwithstanding that the contract of lease has now expired on the 24th October 2016. Applicant continued that defendant has also failed to pay the utility bills.

¹ 4th April 2017

- Despite the fact that defendant has filed a reply, he has failed to appear during these proceedings and notwithstanding that he was given the opportunity to present his proof he failed to do so.

It is to be noted that this judgment is to deal solely with the merits of the case since the first plea raised by defendant has been decided upon by means of judgment delivered on the 16th March 2017.

It results from the lease agreement that defendant has agreed to pay the amount of €500 per month which amount was to be paid on the 9th day of the month at the latest. From the acts of the case and from the above-mentioned points that defendant has breached the conditions of the lease agreement due to the fact that he omitted the punctual payment of the lease for various times, and remained so in default notwithstanding that he was duly called upon not only by means of a judicial letter duly notified to him but also being asked specifically by the applicant to pay the rent due.

With regards to the utilities which applicant demands, same applicant testified that defendant was not paying such bills. Reuben Bonnici in representation of ARMS Ltd has presented various documents in relation to utilities used in Flt 3, 120, Il-Bajja, Xemxija, San Pawl il-Bahar. Such bills refer though to Auberge Properties Ltd which and not the applicant. It has not transpired from the acts of the case that there is any relation between such company and applicant. In any case this company is not a party to these proceedings and thus the claim referring to the utilities will be rejected.

For the above-mentioned reasons, this Board whilst rejecting the second plea put forward by defendant, accedes partly to the applicant's claims as follows:

- (1)decides and declares that the respondent breached the conditions of the lease agreement dated twenty-fourth (24th) April of the year two thousand and fifteen (2015);

- (2) declares that the lease agreement dated twenty-fourth (24th) April of the year two thousand and fifteen (2015) is terminated and dissolved;
- (3) orders the respondent to vacate the apartment numbered three (3) forming part of the building block known as 'Bajja Apartments' and is externally numbered one hundred and eighteen (118) in Xemxija Hill, Xemxija, in a peremptory period of forty (40) days;
- (4) declares that the respondent is a debtor of the applicant in an amount which consists of rent as well as compensation for abusive occupation by the respondent of the apartment rented to him in an amount of eight thousand five hundred Euro (€8,500). The Board is rejecting applicant's claim to condemn defendant to pay the utility bills.;
- (5) liquidates the amount of eight thousand five hundred Euro (€8,500) due by the respondent to the applicant;
- (6) condemns the respondent to pay the liquidated amount of €8,500 to the applicant, with interest according to law.

With costs as requested by applicant to be borne by defendant.

Dr Josette Demicoli LL.D
Magistrate

Lorianne Spiteri
Deputy Registrar