



IN THE SMALL CLAIMS TRIBUNAL

Adjudicator: Dr. Claudio Żammit

Sitting of Monday 1st February 2021

Claim Number: 16/19 CZ

Lyndsey Fenech

vs.

Eraclesofa' Italia S.R.L.

The Tribunal,

Having seen the Notice of Claim filed in virtue of Regulation (EC) 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, filed on 13th September 2019 in virtue of which claimant premised that:

She had ordered a sofa from defendant company on 29th June 2017 and paid a deposit of four hundred Euro (€400) thereon. She was promised that the sofa would be delivered to her in September 2018, but defendant company failed to deliver such.

She eventually agreed with defendant company that the sofa should be delivered by the end of April 2019, on condition that a discount of three hundred Euro (€300) is granted to her. Eventually the sofa was not delivered by the agreed date.

Plaintiff kept trying to contact defendant company about the sofa, but was never given any answer.

Plaintiff is therefore requesting this Tribunal to order defendant company to pay her four hundred Euro (€400) which plaintiff had initially disbursed by way of deposit on this sofa.

The Tribunal also considered that defendant company, duly served upon with the acts on 15th October 2019, did not file any reply to plaintiff's claims.

The Tribunal considered:

From a review of plaintiff's claim, and the documentation she filed with the claim, it results that on the 29th June 2017, she ordered a sofa, composed of several different pieces as can be seen from the order exhibited. From the order itself, it does not appear that a particular deadline was set for the production and the delivery of such sofa; however from the evidence it results sufficiently clear that defendant company had bound itself to deliver the sofa 'sometime in September 2018'; however the deadline was then newly and unilaterally set again by defendant company for April 2019, and this as per the message exhibited by plaintiff, dated 22nd March 2019, where it was indicated that the sofa would be delivered at the end of April.

Plaintiff exhibited various correspondence, both by e-mail and social media messages, whereby she complained about the lack of delivery but was given no adequate reply.

It results therefore that defendant company did not deliver the sofa as stipulated and plaintiff has the right to recover the sum she paid by way of deposit to defendant company.

On the basis of all these considerations, the Tribunal is upholding plaintiff's claims and thus orders defendant company to pay to plaintiff the sum of four hundred Euro (€400), with interest due as from the date of the filing of this claim till the date of effective payment.

Defendant company shall pay all the costs of these proceedings.

Dr. Claudio Żammit

Adjudicator

Mary Josette Musu'

Deputy Registrar