



**SMALL CLAIMS TRIBUNAL  
(GOZO)**

ADJUDICATOR  
DR MICHELA SPITERI LL.D.

**Sitting of Friday 24th of September 2021**

Case Number: 18/2020MS

Ruth Azzopardi

vs

David Peter Harris

The Tribunal

Having seen plaintiff's claim presented on the 4th November 2020 requesting the sum of one thousand nine hundred and forty three Euro (€1943.00) in connection with the upbringing of the parties' daughter Aurora Harris Azzopardi in respect of maintenance fees, school fees and expenses related to uniforms, in terms of a contract dated 12th May 2018, in the acts of Notary Dr Enzo Dimech. (Doc C). With interest.

Having seen that the defendant duly notified, did not present a reply and did not appear before the Tribunal.

Having heard the evidence tendered by plaintiff under oath.

Having seen the documents exhibited.

Considers

That plaintiff is requesting the sum of one thousand nine hundred and forty three Euro (€1943.00) which represents, as to one thousand three hundred and twenty two Euro (€1322.00) school fees for the minor child; as to eighty-one Euro (€81.00) purchase of uniforms for said child, and as to five hundred and forty Euro (€540.00) maintenance for seven weeks.

That according to the separation contract drawn up on the 12th May 2018 in the records of Notary Enzo Dimech, defendant is obliged to pay plaintiff by way of contribution towards maintenance the weekly sum of eighty Euro until the child celebrates her eighteenth birthday or until the child is participating in full time education and still below the age of twenty-three; half the expenses related to issues of health, education and extra-curricular activities and any expenses which exceed the sum of fifty Euro.

Plaintiff exhibited a series of documents: Dok A (fol 17) is unintelligible and therefore Tribunal will not be taking it into consideration; the other documents (fol 18, 19 and 20) are as follows: a BOV transaction in the amount of €520.00 for summer school for the period 8th June - 31 July 2020, a BOV transaction in the amount of €127.82 for extra school hours for the period August 3rd - August 28th; a BOV transaction in the amount of €187.82 for period August 31st - September 28th; BOV transactions in the amounts of €370.00 and €860.00 in respect of tuition fees for CHS Early Years Club and CHS Limited. The total amount of these transactions is two thousand and sixty-five Euro and sixty-four cents (€2065.64), of which defendant is obliged to pay half: - € 1032.82.

Plaintiff also exhibited a receipt for school uniforms from In Design Limited dated 9th September 2020 in the amount of €162.15, of which plaintiff is requesting €81.00. Although said receipt does not technically constitute proof of purchase by plaintiff, the Tribunal has no reason to doubt the veracity of plaintiff's claim, who confirmed the amount under oath.

Plaintiff is also requesting the sum of €540.00 in respect of 7 weeks of maintenance. Although the plaintiff did not specify which weeks are in dispute, the separation agreement is dated 2018 and the case was filed in November 2020, and therefore well within the prescriptive period allowed by law.

#### Considers

That according to the contract exhibited, defendant resides in Ireland, at Casa Rocha, Cuilcagh, Virginia, County Cavan, Ireland. This was the same address used for notification purposes under s.14 of Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), which repeated Council Regulation (EC) No 1348/2000.

According to Article 14 of this Regulation, each Member State shall be free to effect service of judicial documents directly by postal services on persons residing in another Member State by registered letter with acknowledgment of receipt or equivalent. It appears that the documents were sent from Victoria, Gozo to defendant at the indicated address, in November 2020. They were subsequently refused by defendant and returned to Malta in February 2021.

The Tribunal is satisfied that the documents were formally delivered to the defendant at his place of residence as per Article 14 and Article 19 of the Regulation. Defendant's refusal of said documents and his nonappearance, does not detract from the fact that the documents were served on him by a method prescribed by the internal law of the Member State. Since the separation contract was drawn up in Malta, the Tribunal feels that Maltese law should also apply for the purposes of notification. Under Maltese law, where a person to whom a pleading is addressed refuses to receive it personally, the Court may declare that service has been affected on the day and time of the refusal and such shall be considered proof of service for all purposes of law. (Code of Organisation and Civil Procedure, s.187).

The Tribunal is also satisfied that the defendant had sufficient time to defend himself and that six-month period prescribed by law has elapsed between service of document and this judgement, thereby satisfying the requirements of Article 19 of Regulation EC 1393/3007.

Given that the plaintiff's claims are uncontested and given that plaintiff's claims have been corroborated by supporting documentation, the Tribunal feels that plaintiff's case should be upheld as stated above.

For these reasons, the Tribunal partially accedes to plaintiff's claim and orders defendant to pay plaintiff the sum of one thousand six hundred and fifty-three Euro and 82 cents (€1653.82). With costs.

Dr Michela Spiteri LL.D.  
*Adjudicator*

Daniel Sacco  
*Deputy Registrar*