



## **RENT REGULATION BOARD**

**Magistrate Dr. Josette Demicoli LL.D.**

**Annette Rodo (I.D. 166686M)**

**VS**

**Craig Liam Butcher (British Passport Number 50495112) u Jade Handford (British Passport Number 464322300)**

**Application Number: 152/2017**

Today 7th of February 2022,

The Board,

Having seen the application<sup>1</sup> filed by applicant on the 14th of November 2017 in which she premised:

1. That applicant leased the property 29<sup>th</sup>, St Sebrick, Triq il-Qiegha, Siggiewi to the respondents, for the period of one year from the 1<sup>st</sup> July 2017 to the 1<sup>st</sup> July 2018 for the amount of EUR 800 per month payable monthly in advance, as results from the contract attached and marked **Dok AR1**.

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<sup>1</sup> Fol. 1 to 3

2. That on the contract, the respondents had paid only the amount of EUR 800 as deposit according to clause R of the contract.
3. That it was only on the 22<sup>nd</sup> August 2017 that the respondents paid a further amount, this being EUR 900, to the applicant.
4. That since the defendants were amply late in the payment of the rent, the applicant informed the defendants that the lease was terminated in terms of clause Q of the lease agreement, and therefore the defendants had to vacate the property within seven days of the 1<sup>st</sup> September 2017 according to the same clause.
5. That on the 13<sup>th</sup> September 2017, the defendants vacated the property and returned the keys of the property.
6. That therefore the rent due for the entire period between 1<sup>st</sup> July 2017 and 13<sup>th</sup> September 2017 is EUR 1,941.92, as explained in the schedule attached **Dok AR2**.
7. That the penalty of EUR 150 is also due in terms of clause Q of the agreement, for the period between the 8<sup>th</sup> September 2017 and the 13<sup>th</sup> September 2017, amounting to EUR 900.
8. That during this period of around two and a half months, there is also due the amount of EUR 270.17 for water and electricity according to the readings taken, as results from the bill calculator Dok AR3 and the bills attached Dok AR4 and Dok AR5. There is also EUR 90.35 due for the Melita bill that the defendants failed to paid and which was paid for by the plaintiff, as seen from the bill attached **Dok AR6**.
9. That apart from this, the defendants failed to leave the property in a good and clean state according to clause F of the agreement, and therefore this had to be done by the same plaintiff at the preliquidated cost of EUR 100 due to the plaintiff in terms of the same clause.
10. That therefore the global amount payable by the respondents is EUR 3,302.43 as also explained in the schedule Dok AR2.
11. That notwithstanding this, as already explained, to date the defendants

only paid the sum of EUR 1,700 to the applicant, as to the payment of the 22<sup>nd</sup> August 2017 and the deposit of EUR 800 which was forfeited in favour of the plaintiff on account of what is due.

12. That therefore there is a balance of EUR 1,602.43 due as explained in the schedule Dok AR2.

13. That therefore this case had to be opened.

Therefore the plaintiff humbly requests that the Honourable Board, saving any necessary and opportune declaration by the defendants, to:

1. Declares that the defendants are jointly and severally responsibly to pay the amount of EUR 1,602.43 and/or such truer amount and this as to rents, penalty and expenses due regarding the lease of the property 29<sup>th</sup>, St Sebrick, Triq il-Qiegha, Siggiewi and as explained in this application.
2. Orders the defendants jointly and severally to pay the said amount of EUR 1,602.43 and/or such truer amount according to the first claim.

With costs and legal interests.

Having seen the reply<sup>2</sup> filed by respondents Craig Liam Butcher and Jade Handford on the 20th of April 2018 due to which they plead:

1. That, this action is vexatious and outrageous, aimed to take the opportunity to use the respondents' lack of local legal knowledge to make a "quick buck" and to evade its contractual and legal obligations;
2. That, in more than one instance in the application, the respondents contend anomalies both in the amounts due and in the dates quoted by the applicant, as will be shown during the course of proceedings;

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<sup>2</sup> Fol. 20 to 21

3. That, moreover the bills for utilities' must be revised reflecting the actual service and consumption by respondents;
4. That, without prejudice to the above and contrary to the applicant's claims, the respondents vacated the property of their own volition due to the fact they they had no other real option. Moreover, they were constrained to leave the property after multiple unsuccessful attempts to get basic amenities fixed and therefore Clause Q of the Rental Agreement is entirely not applicable;
5. That, any prejudice that the applicant may have suffered is due solely to the neglect of the same and consequently, the applicant should direct any of her claims solely and exclusively to herself;
6. That applicant has not fulfilled her obligations in terms of law by failing to provide the respondents with a habitable residence and amend the situation, despite being duly notified;
7. That, contrary to what is being alleged by the applicant, respondents have exercised the attention and diligence of a bonus paterfamilias and it is not true that they have failed to leave the property in a good and clean state;
8. That, in terms of Article 562 of the Code of Organisation and Civil Procedure, it is the obligation of the applicant to bring the sufficient and relevant evidence in support of her claims;
9. Therefore the applicant's requests are legally and factually unsustainable and should be rejected with costs against applicant;

Subject to further grounds for defence as permitted by Law.

Having seen the documents filed by the parties.

Having heard the testimonies of the witnesses whom they presented to the Board.

Having heard the final submissions.

### **Considers that:**

This dispute involves applicant's demand for this Board to condemn respondents to settle in her favour the alleged outstanding balance of one thousand six hundred and two Euro and forty three cents (€1602.43) representing outstanding rent arrears, balance of price for utilities consumed in the tenement let and a cleaning fee, after deducting the payments which applicant received from respondents by way of rent and deposit.

Applicant presented to the Board a copy of the rent agreement dated 1st July 2017<sup>3</sup>, entered into between the parties, for the residential lease of the tenement 29, St Sebrick, Triq il-Qieghda, Siggiewi, contracted for one year from 1st July 2017, at the monthly rent of €800 payable in advance, and against the payment of an €800 deposit which had to be paid on 15th July 2017. Respondents, as tenants, undertook to pay the sum of €100 per month in advance for water and electricity.

Respondents tenants have retained detention of this tenement for a couple of weeks only, throughout July and August 2017, and vacated on 13th September 2017<sup>4</sup>. Applicant presented a schedule<sup>5</sup> showing their computation of the sum claimed in this action. This schedule shows applicant's contention that respondents must pay a €900 penalty for delay to vacate the tenement, a total of €380.51 in settlement of the price for utilities<sup>6</sup>, and €1941.92 by way of rent arrears.

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<sup>3</sup> Doc. AR1, fol. 7 to 8

<sup>4</sup> See Application, fol. 1

<sup>5</sup> Fol. 9

<sup>6</sup> Docs. AR3 to AR6, fol. 10 to 13

### **Considers furthermore that:**

In her testimony<sup>7</sup>, applicant explained that respondents had visited the tenement before they decided to take it on lease at the rent, and subject to the conditions, stipulated in the aforementioned lease agreement. At the outset, they did not have sufficient funds to settle the first rent instalment and the deposit, and they only paid the deposit, promising to settle the rent at a later date. By August 2017, respondents had paid €800 by way of deposit and €900 by way of rent for the month of August 2017. The rent for the month of July 2017 had to be paid by instalments over the first three months of the lease. In September 2017, they did not pay any rent, but quit the place and left the keys at the tenement let on 13th September 2017. In regard to water and electricity utilities, applicant worked out the dues on the basis of the number of days during which respondents had the detention of the tenement let, and on the basis of the meter readings showing following their vacating the tenement. In regard to the television, internet and telephony bill, the services continued to be registered in the name of applicant, subject to the obligation of respondents to settle the bills, which however they never did.

Applicant explained further that respondents had motivated their vacating the tenement on the basis of shortcomings in the appliances and other facilities, including the length of time to fix the washing machine, the lack of running water from the taps and lack of maintenance works. Applicant refutes all those allegations.

When she continued to testify, applicant<sup>8</sup> confirmed that her maiden surname was Spiteri, with reference to her identification on the utilities' bills. She declared that the tenancy was terminated on 8th September 2017, and respondents vacated the tenement on 13th September 2017, and that therefore she is claiming payment of the delay penalty. She further declared that she is claiming the cleaning fee on account of the alleged mess that she

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<sup>7</sup> See testimony, 24.4.2018, fol. 24 to 35

<sup>8</sup> See testimony, 5.2.2019, fol. 86 to 95

found in the tenement upon re-entry. She denied that the July 2017 rent was ever settled, despite their agreement that respondents would settle it over the first three months of the lease. She insisted that she only became aware of the maintenance and repair issues which respondents were having on 19th August 2017 when she met them to collect the August rent. She made arrangements to send the technician to repair the washing machine on 8th September 2017, following respondents' reply that the cleaning of the filters did not do away with its fault, but respondents were not communicating anymore by then. Applicant denied that the tenement was advertised as having an internet connection at no charge, and insisted that respondents knew what they had to pay in that regard. She also denied that the fault in the oven made it getting on on its own.

Applicant presented extracts<sup>9</sup> from electronic messages registered between her cellular phone and the cellular phone of respondent Jade Handford.

Under cross-examination<sup>10</sup>, applicant asserted that television and internet services were installed in the tenement in the course of this tenancy. Then there was no time to present the bill for payment because respondents left soon after. She confirmed that the cleaner never visited the tenement during this tenancy, stating that this happened because she was not paid as agreed. Applicant insisted that there were no cats in the tenement when this tenancy started, and denied that the sofa was in a bad state. She contended that she had informed respondents about the oven problem, which was not a problem for them, and also about water ingress problems when it rains, with which they had no problem as the tenement was large and had five bedrooms. She denied further that there was no water service downstairs.

Rueben Bonnici<sup>11</sup>, an executive at ARMS Limited, confirmed the applicability of the bill calculator to calculate the rent and consumption charges for

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<sup>9</sup> Dok. SMS1, fol. 96 to 115

<sup>10</sup> See testimony, 2.6.2021, fol. 144 to 155

<sup>11</sup> See testimony, 2.10.2018, fol. 62 to 68

determinate readings. He also filed official copies of the bills for utilities<sup>12</sup> charged on applicant with reference to the relevant time of this lease. These utilities were charged at domestic rates.

Emily Abela<sup>13</sup>, legal counsel at Melita Limited, confirmed that the service supplied at the tenement is registered in the name of applicant, and included television, internet and telephony connections at a subscription fee.

### **Considers that:**

In her testimonies<sup>14</sup>, respondent Jade Handford confirmed that they had viewed the tenement before agreeing to take it on lease, and signing the lease agreement. She claimed that, on 1st July 2017, she paid €900 in settlement of rent and deposit on utilities charges, and handed over €400 to the property negotiator. She further claimed that applicant allowed them time until Christmas 2017 to settle the balance of the deposit, but they paid a further €250 on account, together with the rent which they paid for the following month. She declared that all payment were effected in cash, and that applicant never handed over a receipt. She further stated that respondents quit the tenement because there was no water supply downstairs, the water meter was turning round very fast even when water was not being used, the washing machine was faulty and the oven was turning on on its own, and the faults persisted despite their insisting on repairs with applicant for six weeks. She confirmed that respondents quit the tenement on 13th September 2017. Jade Handford declared that respondent Craig Butcher offered to do the repairs, but applicant did not allow him to proceed; she further contested that they had to pay for the television and internet services installation as the tenement was advertised to include such services.

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<sup>12</sup> Fol. 45 to 49

<sup>13</sup> See testimony, 2.10.2018, fol. 69 to 72

<sup>14</sup> See fol. 74 to 84 and 120 to 134



When she continued to testify, Handford declared that they liked the tenement on viewing it because it had plenty of space and facilities which they liked. They saw that the sofa was in a bad state and the tenement was not clean, but they still saw potential in the place. At the end, then, they decided to leave because it turned very unsafe over a span of two months. She declared that respondents had started advising applicant about the shortcomings in the tenement as early as a fortnight after the start of the lease, but these were never remedied.

Under cross-examination, respondent confirmed that the tenement became unsafe within two months of their entering it. She contended that she could not leave the tenement clean because of the lack of water supply. She negated their being late in the rent payment – according to respondent, the late payment was due to applicant having other commitments, and not being able to pick up the rent. She clarified furthermore that they had terminated the lease, advising the agent that they had decided to quit the tenement around 12th September 2017. She insisted that applicant was very late to set up the appointment with the technician in order to remedy the faults.

Respondents presented documentation showing that respondent Jane Handford rents a commercial tenement in Saint Paul's Bay, and a residential tenement in Burmarrad, and has been paying a comparable rent punctually for the past years.<sup>15</sup>

**Considers furthermore that:**

After considering all evidence, the Board is satisfied that:

- (i) a residential lease relationship existed between the parties to this case, which started on 1st July 2017, and which was regulated in terms of the lease agreement dated 1st July 2017;
- (ii) respondents did not settle any part of the deposit;

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<sup>15</sup> Fol. 159 to 168

(iii) respondents paid the rent due for the months of July 2017 and August 2017, and €100 on account of the utilities charges;

(iv) television and internet facilities were only installed in the tenement in August 2017, and the lease agreement states in clause T – *‘Would you like to be contacted for a no obligation Insurance quote, TV or Wi-Fi service?’*;

(v) respondents unilaterally terminated the lease on 13th September 2017.

From all the evidence produced, the Board does not find that respondents had good ground for terminating this lease. The shortcomings in regard to which they raised complaints, with applicant as lessor, and before this Board, fell, on a balance of probabilities, within the scope of their obligation set out in clause D of the lease agreement.

On the other hand, on a balance of probabilities, and for want of the best proof, the Board is not satisfied that:

(i) respondents terminated the lease prior to their vacating the tenement – applicant did not show that termination preceded repossession;

(ii) respondents left the tenement unclean and untidy – no pictures showing this state were exhibited;

(iii) respondents accepted to pay an additional charge for the installation and use of television, telephone and internet services in the tenement let – the lease agreement appears to stipulate otherwise in clause D.

The Board therefore concludes that the payments which respondents had to pay unto applicant in terms of the lease agreement are as follows:

(i) three rent instalments for July 2017, August 2017 and September 2017, amounting to €2400 (two thousand and four hundred Euro); and

(ii) utilities’ rent and consumption charge of €270.16 (two hundred and seventy Euro and sixteen cents).

Out of these dues, applicant accepts that respondents paid in total the sum of €1700 (one thousand and seven hundred Euro), leaving an outstanding balance of €970.16 (nine hundred and seventy Euro and sixteen cents).

## **Decide**

For the aforementioned reasons, this Board rejects all pleas raised by respondents in so far as they are incompatible with its conclusions as herein explained, and upholds only partly applicant's demand, condemning respondents to pay unto applicant the sum of €970.16 (nine hundred and seventy Euro and sixteen cents) with legal interest from today until the date of final payment.

Each party shall bear its own costs in these proceedings.

**Dr Josette Demicoli**

**Magistrate**

**Cora Azzopardi**

**Deputy Registrar**