



# Rent Regulation Board

**CHAIRMAN DOTTOR SIMONE GRECH  
B.A. LL.D. MAG. JUR. (EUR LAW)**

**Application Number: 4/2020 SG**

**Jean-Christophe Bennavil (I.D. No. 0050478A)**

**vs**

**Antonino Denaro (I.D. No. 0167004A)**

**And by virtue of the decree given on 12th June 2023, Dr Joseph Grech was appointed to represent Antonino Denaro**

**Today, Tuesday, 26th March 2024**

The Board:

Having seen the application filed by applicant on the 11th May 2020 whereby it was declared and requested that:

- 1. Illi r-rikorrent huwa proprjetarju tal-fond ossia appartamenti numru tnejn [2] formanti parti mill-blokk ta' appartamenti numru hamsa u erbghin [45], bl-isem St. Saviour, fi Triq il-Kappillan Gużep Hili, il-Fontana, Għawdex li huwa jikri lill-intimat bil-kera ta' erba' mija u hames Euro (€ 405.00) fix-xabar skont il-kuntratt ta' kera iffirmit mill-partijiet nbar l-enwel [1] ta' Gunju tal-elfejn u dsatax [2019], kopja awtentikata ta' liema hija annessa bhala dokument **JCB 01**.*
- 2. Illi bil-kuntratt ta' kera li ffirma, l-intimat intrabat li jhallas il-kera kull xabar bil-quddiem.*
- 3. Illi fl-istess kuntratt il-partijiet qablu li r-rikorrent zamm id-dritt li jittermina l-kirja kemm-il darba l-intimat jonqos milli jhallas kwalunkwe skadenza ta' kera u jibqa*

*bekk moruż għal-ħmistax [15] il-jum minn meta l-istess kienet dovuta u dan mingħajr bżonn ta' rikors lill Qrati nostrani.*

4. *Illi ciononostante, ir-rikorrent aderixxa mar-rekwiżiti addizzjonali tal-liġġiet nostrani vigenti u nnotifika lill-intimat bl-ittra ġudizzjarja numru 149/2020, kopja vera ta' liema hija anessa bhala dokument **JCB 02**.*
5. *Ili l-istess kuntratt ta' kera jispjefika li l-intimat huwa esklussivament responsabbli għal-ħlas tal-utilitajiet ta' dawl u ilma kif ukoll l-ispejjeż tal-kera tal-meters relattivi għall-istess utilitajiet.*
6. *Illi għalkemm it-terminu tal-kirja beda nbar l-ewwel [1] ta' Ġunju tal-elfejn u dsatax [2019], kif jidher fil-kuntratt ta' kera, u l-intimat ha l-pussess tal-fond f'dik id-data, ir-rikorrent ikkonceda l-ewwel xabrej tal-kirja (ossia Ġunju u Lulju) ex gratia u dan stante li l-keċina fl-appartament kien għadha mbux lesta għal kollox. Madanakollu; minn dawk ix-xabrej il-quddiem, ossia minn Anwissu tal-elfejn u dsatax [2019], l-intimat qatt ma' hallas il-kera dovuta u angas hallas il-kontijiet tal-utilitajiet u spejjeż relattivi. Il-kontijiet tal-utilitajiet u spejjeż relattivi ġew fil-fatt saldati mir-rikorrent sabiex l-istess jevita kwistjonijiet mall-entitajiet responsabbli minnhom.*
7. *Illi huma għalbekk diga dovuti mill-intimat lir-rikorrent l-iskadenzi tal-kera minn Anwissu sa Diċembru tas-sena elfejn u dsatax [2019] u minn Jannar sa' Mejju tas-sena kurrenti, elfejn u għoxrin [2020], stante li l-iskadenza ta' Mejju tal-elfejn u għoxrin [2020] hija diga dovuta peress li l-kera titballas kull xahar bil-quddiem. B'dan għalbekk, l-arretrati diga dovuti f'kera jammontaw għal erba' t'elef u hamsin Euro (€ 4,050.00) kif jirriżulta mid-dokument anness bhala **JCB 03**.*
8. *Illi huma wkoll dovuti mill-intimat lir-rikorrent l-ammonti relattivi għal-konsum tal-utilitajiet u l-kera tal-meters relattivi għall-istess kif imballsa fisem l-intimat mir-rikorrent u dawn fil-valur ta' seba' mija u sittax-il Euro u wieħed u sittin centeżmu [€ 716.61] (għal-perijodu bejn l-ewwel [1] ta' Ġunju elfejn u dsatax [2019] u l-erbgha [4] ta' Mejju elfejn u għoxrin [2020]) kif jirriżulta mill-faxxikolu ta' dokumenti awtentikati anness bhala **JCB X** wara emmendi żgħar li ttiehdu in kunsiderazzjoni fil-kalkolu kif kien prospettat fid-dokument anness bhala **JCB 03** fejn il-valur jidher daqxajn iżjed, ossia, seba' mija u tlieta u għoxrin Euro u sebgha u erbghin centeżmu [€ 723.47].*
9. *Illi minkejja li l-intimat ġie mitlub jagħmel il-ħlasijiet ta' kull skadenza ta' kera wara kull skadenza u ġie mitlub iħallas għall-utilitajiet ta' dawl u ilma kull meta dawn kienu dovuta, ir-rikorrent ukoll bghat lill-intimat: [i] ittra legali datata s-sebgha u*

ghoxrin [27] ta' Marzu tal-elfejn u ghoxrin [2020] (mibghuta bil-posta kif ukoll b'email fl-istess data liema email giet ricevuta u moqrija mill-intimat dakinbar stess) [ara l-kopji awtentikati tal-ittra u l-email annessi bhala dokumenti **JCB 04 u JCB 05** rispettivament kif ukoll il-kopja awtentikata tar-ricevuta u l-qari tal-email skont id-dokument anness bhala **JCB 06**] fejn ir-rikorrent spjega dawn in-nuqqasijiet u nuqqasijiet addizzjonali li m'għandhomx x'jaqsmu mal-kuntratt ta' kera lill-intimat u ta' lill-intimat l-opportunita' li juttermina l-kirja qabel iż-żmien kif kien xtaq jagħmel; [ii] email addizzjonali tad-disgħa [9] ta' April tal-elfejn u ghoxrin [2020] fejn l-intimat gie mgharraf li fil-perseveranza tan-nuqqasijiet tiegħu, kellhom jittiehdu passi ġudizzjarji kontrib u kienu ser jittiehdu passi obrajn [kopja awtentikata hija annessa bhala dokument **JCB 07**], u; [iii] ittra ġudizzjarja li ggħib in-numru 149/2020 fejn ir-rikorrent tenna l-istess fatti (diga annessa bhala dokument **JCB 02**). Madanakollu, l-intimat baqa għall-kollox inadempjenti billi angas biss irrisponda għall-intimazzjonijiet varji li sarulu mir-rikorrent bl-ammonti hawn mitluba għadhom il-koll dovuta waqt li l-intimat għadu fil-pussess tal-proprjeta' tar-rikorrent.

10. Illi l-intimat baqa' fil-pussess tal-proprjeta' tar-rikorrenti anke wara l-iskadenza tat-terminu tal-kirja skont il-kuntratt ta' kera anness bhala dokument **JCB 01**.

11. Illi apparti dan spjegat supra, l-intimat ta' x'jifhem li huwa kien qed ihejji ruhu sabiex jitleq minn Malta u jmur lura f'pajjiżu, Sqallija, għal liema raġuni, u sabiex jikkawtela d-drittijiet tiegħu, ir-rikorrent kellu addirittura jintavola Mandat ta' Sekwestru li jgħib in-numru 31/2020 MV u iehor ta' Qbid li jgħib in-numru 32/2020 MV [kopji veri ta' liema huma hawn annessi u mmarkati bhala dokumenti **JCB 08 u JCB 09** rispettivament]. Dawn il-mandati jkopru l-valuri mertu ta' din il-kawża flimkien ma' valuri mertu ta' kawża separata bejn l-istess partijiet.

12. Illi anke wara l-intavolar tal-ittra ġudizzjarja, il-Mandat ta' Sekwestru, u dak ta' Qbid, l-intimat baqa inadempjenti għalkemm qatt ma' nnega li huwa moruż.

13. Illi għalhekk kellha tiġi intavolata din il-kawża.

14. Illi r-rikorrent jiddikjara li sa fejn jaf huwa l-intimat m'għandu ebda eċċezzjoni valida xi jressaq għat-talbiet magħmula quddiem dan l-Onorevoli Bord. Għaldaqstant din il-kawża tista tinstema' u tiġi deċiża bid-dispensa tas-smiegh ai termini tal-Artikolu 16A tal-Ordinanza li Tirregola t-Tiġdid tal-Kiri tal-Bini (Kap. 69 tal-Liġijiet ta' Malta).

15. Illi dawn il-fatti huma a diretta konossjenza tar-rikorrent kif jirriżulta wkoll mid-dikjarazzjoni tal-fatti fil-qosor magħmulha mir-rikorrent ai termini tal-Artikolu 16A(1)(a) tal-Kap. 69 u li qiegħda tiġi hawn annessa bhala dokument **JCB 10**.

**GHALDAQSTANT**, in vista tas-suespost, jgħid l-intimat għaliex m'għandux dan l-Onorevoli Bord:

- i. Jisma' u jiddeciedi din l-kawża bid-dispensa tas-smieġh ai termini tal-Artikolu 16A tal-Ordinanza li Tirregola t-Tigdid tal-Kiri tal-Bini [Kap. 69 tal-Liġġiet ta' Malta];
- ii. Jiddikjara li l-intimat Antonino Denaro huwa moruż fil-blas tal-iskadenzi tal-keera għall-appartament numru tnejn [2] formanti parti mill-blokk ta' appartamenti numru hamsa u erbghin [45], bl-isem St. Saviour, fi Triq il-Kappillan Gużep Hili, il-Fontana, Għandex u dan minn Anwissu tas-sena elfejn u dsatax [2019] sal-wiehed u tletin [31] ta' Mejju tal-elfejn u għoxrin [2020] fil-valur ta' erba' t'elef u hamsin Euro (€ 4,050.00) bi ksur tal-kuntratt ta' keera u l-liġġiet ta' Malta vigenti;
- iii. Jikkundanna lill intimat iħallas lir-rikorrent l-arretrati dovuti f'keera għall-perjodu minn Anwissu tas-sena elfejn u dsatax [2019] sal-wiehed u tletin [31] ta' Mejju tal-elfejn u għoxrin [2020] li tammonta kompleksivament għal erba' t'elef u hamsin Euro [€ 4,050.00], u għall kull perjodu addizzjonali, jekk ikun il-każ, kif jiġi likwidat minn dan l-Onorevoli Bord, bl-imghax legali mid-data ta' kull skadenza sal-pagament effettiv;
- iv. Jiddikjara li l-intimat Antonino Denaro huwa wkoll moruż fl-obbligi tiegħu ta' blas tal-utilitajiet ta' dawl u ilma kif ukoll il-keera tal-meters relattivi għall-istess utilitajiet u huwa debitur tar-rikorrent fil-valur ta' seba' mija u sittax-il Euro u wiehed u sittin centezmu [€ 716.61], jew somma verjuri, imballsa f'ismu mir-rikorrent għall-utilitajiet ta' dawl u ilma li huwa utliżza fil-fond mikri lulu u l-keera tal-meters korrispettivi, bi ksur tal-kuntratt ta' keera;
- v. Jikkundanna lill-intimat jirrimborsa lir-rikorrent fis-somma ta' seba' mija u sittax-il Euro u wiehed u sittin centezmu [€ 716.61], jew somma verjuri, imballsa f'ismu mir-rikorrent għall-utilitajiet ta' dawl u ilma li l-intimat utliżza fil-fond mikri lulu u l-keera tal-meters korrispettivi, bl-imghax legali mid-data ta' kull kont sal-pagament effettiv;

- vi. Jiddikjara li l-intimat naqas milli jirritorna l-pussess tal-fond wara l-iskadenza tal-kirja u huwa ghalhekk responsabbli versu r-rikorrent għall-blas ta' penali jew kumpens ieħor għall-okkupazzjoni tal-proprjeta' tar-rikorrent anke wara l-wieħed u tletin (31) ta' Mejju 2020 meta skada l-kuntratt ta' kera;
- vii. Jillickwida l-imsemmija penali jew kumpens,
- viii. Jikkundanna lill-intimat iħallas il-penali jew kumpens hekk likwidat lir-rikorrent, bl-imghaxxijiet legali mill-enwel (1) ta' Ġunju 2020 sad-data tal-pagament effettiv.
- ix. Jiddikjara li l-intimat huwa responsabbli versu r-rikorrent għall-blas tal-arretrati tal-kontijiet tad-dawl u l-ilma u l-kera tal-meters relattivi għall-perijodu ta' l-okkupazzjoni minnu wara l-iskadenza tal-kuntratt ta' kera;
- x. Jillickwida l-ammont dovut mill-intimat bhala arretrati ta' kontijiet tad-dawl u ilma u l-kera tal-meters relattivi hekk dovuta;
- xi. Jikkundanna lill-intimat sabiex iħallas lir-rikorrent l-arretrati hekk likwidati bl-imghaxxijiet legali mid-data ta' kull kont relattiv sad-data tal-pagament effettiv.
- xii. Jiddikjara li l-intimat qiegħed jokkupa l-proprjeta' tar-rikorrent illegalment u abbużivament stante illi l-kirja a favur tiegħu intemmet irrimedjabilment u l-intimat ma fadallu ebda dritt validu fil-liġi li jibqa' jokkupa dan il-fond;
- xiii. Konsegwentement, jiddikjara xjolt il-kuntratt ta' kera u jordna l-iżgumbrament tal-intimat Antonino Denaro mill-istess fond fi żmien qasir u perentorju bl-intimat jirrilaxxa l-pussess tal-fond u jikkonsenja i-čwieviet tal-istess fond lir-rikorrent, u dan prevja kull provvedimenti li dan l-Onorevoli Bord jidbirlu xieraq u opportun.

*Bl-ispejjeż, inkluż ta' dawn il-proċeduri u ta' l-ittra gudiżżjarja numru 149/2020, il-Mandat ta' Sekwestru numru 31/2020 MV, u l-Mandat ta' Qbid numru 32/2020 MV, u bl-imghaxxijiet legali kontra l-intimat li huwa minn issa ngunt għas-subiżżjoni.*

*B'riserva ta' kwalunkwe azzjoni obra spettanti lir-rikorrent inkluż għal għbir ta' kull ammont ieħor talvolta dovut lilu sad-data tal-effettiv rilaxx tal-fond mill-intimat u, jekk ikun il-każ, għad-danni.*

Having seen the documents exhibited;

Having seen the Applicant's request to hold proceedings in the English Language, which request was upheld on 2<sup>nd</sup> July 2020;

Having seen Respondent's reply filed on the 10th July 2020 by virtue of which the Respondent submitted respectfully the following:

*The claim being put forward by the applicant is completely unfounded in both fact and law, and this for the following reasons:*

- 1. Respondent has duly vacated the leased property and consequently there is no need for a judgment ordering him to do the same;*
- 2. No sum of money is due by the respondent in favour of the applicant in view of the fact that parties had themselves agreed that any rent would be deducted from a greater sum due by the applicant to the respondent for works and services carried out by the latter;*
- 3. The applicant's requests including that for the payment of a sum representing compensation for illegal occupation are otherwise unfounded and this as will result during the course of these proceedings;*
- 4. Save for further pleas which may be submitted in terms of law.*

*With costs and expenses against the applicant.*

Having seen that parties agreed that defendant vacated the premises in question on the 12<sup>th</sup> June 2020.

Having heard the evidence brought.

Having seen all the acts of this case.

## **Considers**

The applicant, Jean-Christophe Bennavil filed a sworn statement claiming that he got to know Respondent, Antonino Denaro in the summer of the year two thousand and sixteen [2016] when he was employed with Mr Terence Zammit, a contractor who was working for applicant. He explained that Antonino Denaro wanted to establish his own practice, so he contracted him for works at his residential home between October 2017 and March 2018, adding that in January 2018 he had acquired a house in Fontana and he had contracted

Antonino Denaro to convert the house into two apartments. Applicant continued to state that in April 2019 Antonino Denaro approached him to rent one of the apartments he had just worked on, and as a result, they signed a lease agreement for one year commencing 1<sup>st</sup> June 2019. He claimed that Antonino Denaro and his family immediately moved in and since the kitchen and appliances were not yet installed when Antonino moved in, they agreed that the first two months of rent would be free, except for the utility bills which had to be paid by Denaro immediately.

Bennavil said that in August 2019, when rent was due, he was approached by Antonino Denaro in order to delay rent payment as he was facing liquidity problems, a problem which he was aware of due to their working relationship and had accepted delayed payments, and also offered to pay for utility bills himself but such payment was to be reimbursed by respondent, and that the latter discussed to set off payments with working hours. Applicant explained that by May 2019, Antonino Denaro's accountants had already issued him seven invoices, however these invoices were being set off against advance payments he had made to Antonino Denaro. He continued that seeing the rent due and advance payments always increasing, he proposed to Antonino Denaro's wife to do some cleaning work him and he also offered that Antonino start working on his new house. By November 2019 Antonino Denaro still had not started paying rent. When in January 2020 Antonino Denaro proposed to settle off all payments regarding works, rent and advance payments, Bennavil asked Antonino to arrange a meeting with the accountant Mr John Buttigieg. He explained that meanwhile, he also proposed that defendant should start paying rent net of the billable hours his wife was doing and in February 2020 he reminded Antonino and his wife several time regarding due rent payments.

Plaintiff explained that Antonino Denaro's wife sent him an email on 12<sup>th</sup> March 2020 asking him to renew the lease agreement on her name once the said agreement's term lapsed, which request he declined and was informed by respondent that towards the end of March 2020 he was ready to leave the apartment, and to this matter he received a final invoice from Mr Antoine Formosa, Antonino's new accountant, and also a condition that Antonino will leave the property subject to settling of final invoice of €6,098.00. Applicant argued that taking only in consideration his advance payments without the rent and bills due, respondent still owes him €20,840.16, the subject matter of another court case. Jean-Christophe Bennavil continued to state that by means of a legal letter he informed Denaro that he was accepting his early termination of lease but he refused to the settlement agreement Denaro proposed. Furthermore, on the 30<sup>th</sup> March 2020 he received a message from Denaro's wife that they were still looking for alternative residence, and on consultation with his legal counsel he had sent a judicial letter on April 22<sup>nd</sup> 2019.

He claimed that on the 1<sup>st</sup> May 2020 Mr Mario Zammit, an acquaintance of the parties called him to persuade him not to take Denaro to court, and he explained to him that he has to settle his rent dues. On Monday 1<sup>st</sup> June 2020, when the lease expired, Denaro and his wife

were still in the apartment, and as a result, he had filed a police report, and also he made various attempts to contact the couple both through email and WhatsApp messages. On 7<sup>th</sup> June, applicant went to the apartment and Antonino Denaro told him that he will vacate by 13<sup>th</sup> June. After Denaro and his family left, he found the apartment dirty and several damages, with also the oven being left on.

Applicant claimed that on 17<sup>th</sup> June 2020, he met with Antonio Denaro together with Mr Camilleri in order for Antonino to return the keys and take the stuff he left behind, namely, a washing machine and 2 broken laptops. The electricity and water meters were read. Respondent owed Bennavail a total of €1,008.26 for unpaid utility bills as well as €4,050 for unpaid rent. On the 24<sup>th</sup> June 2022, applicant explained that Denaro had never paid him any rent and added that in January 2020 Denaro had informed him that he did not want to work for him any longer, to which applicant had replied stating that he needs to check the finances, since rent was never paid while emphasising that he had always asked for the rent. Applicant further stated that he wanted Antonino Denaro to pay for all his rent dues together with the utility bills as these were being paid by him personally. Applicant made reference to the documents presented by him including (i) an invoice of €1000 payable to Mr Lucifera, a surveyor from Sicily, regarding Denaro's work on his project due to an allegation that payment was still due; (ii) the garnishee order he filed with urgency in court against Mr Denaro, due to fear that he may abscond (iii) a video taken on the 15<sup>th</sup> May 2019 showing an issue arising as a result of a scaffolding. The applicant added that when respondent vacated the apartment, he had left the oven on and on the day he left he did not return the keys, which is why he had to change the keys of the apartments.

Applicant testified on another occasion wherein he explained the documents he submitted together with the note dated 22<sup>nd</sup> March 2022. He stated that respondent never paid any rent or utility bills for the whole time he stayed in the apartment.

On the 14<sup>th</sup> January 2021 **Leanne Vella** in representation of ARMS Ltd exhibited the detailed bills for utilities consumed in the tenement up to the date the Respondent evicted the property and explained that the bills for account number 411000141318 in the name of Jean-Christophe Bennavail, for the period 1<sup>st</sup> June 2019 to June 2020, of "45, Triq il-Kappillan Guzeppi Hili, Fontana", are actual consumption for the electricity while estimate consumption for water, and they also include the rent of the meters.

**Antonio Denaro** gave evidence on the 6<sup>th</sup> May 2021 and explained that he used to rent the property bearing address Flat 2, St. Saviour, Triq il-Kappillan Guzeppi Hili, Fontana, Gozo, together with his wife Ms Quarella Franca and occasionally, his daughter Ms Adriana Denaro. The property was rented out at €405 per month but he moved out of the property on the 12<sup>th</sup> or 13<sup>th</sup> June 2020 and returned the keys on a later date. Respondent made reference to a document showing money he received from applicant in relation to works he was carrying out in applicant's property and also confirmed an invoice issued by him through



his accountant Mr Antoine Formosa for works he had carried out. Respondent also made reference to a string of emails between him and Applicant which emails show that he had offered to vacate the property by March 2020 had applicant accepted to settle all accounts but the applicant never approached him to settle the accounts but would only approach him regarding the rent or to vacate his property. He stated that applicant had also changed the locks of the apartment while he still had personal items in the apartment. He declared that after having vacated the apartment, the parties met accompanied by third parties.

On the 11<sup>th</sup> January 2022, Respondent was cross examined and explained that he had rented out around 4 properties in Gozo, which rents were all regulated by a lease agreement in the English and Italian language as he understands very little English. He added that the lease agreement he signed with applicant was in the English language and he did not understand its contents. Whereas previously he had agents assisting him, when contracting with applicant, he did not have anyone assisting him. He claimed that he is a construction worker and had converted one of applicant's house in Fontana into 2 apartments, one of them, in which he lived in as well as other works in another property of the applicant situated in Xaghra. Asked to inform the Board when he vacated the property, the Respondent claimed that he does not remember.

On the 4<sup>th</sup> November 2021 Denaro filed a note with a set of emails and a DVD containing recordings.

**Franca Querella** testified on the 23<sup>rd</sup> September 2021 and stated that Flat number 2, Block 45, Triq Kappillan Hili, Fontana Gozo was a property which she and her family; Antonino Denaro, Adriano Denaro, Emanuele and herself rented from applicant but did not recall when they moved in. Quarrella claimed that they got to know about the apartment in question due to the fact that her husband had converted the Fontana house in 2 apartments for applicant and her husband signed a lease agreement. Asked as to whether they paid rent, she claimed that for more than a year she used to clean at applicant's house and he never paid her. The witness claimed that the applicant did not want to renew the rent even though she was ready to pay the rent herself but failed to remember when they evicted the property.

**Dietmar Treptow** gave evidence on the 5<sup>th</sup> November 2021 wherein he claimed that he knows Mr Jean-Christophe Bennavail through other works the latter had commissioned him on one of his properties. He stated that he takes care of little DIY things for Mr Bennavail and on the 13<sup>th</sup> June 2020 he changed the locks on the main door and garage door of a block of two apartments belonging to Mr Bennavail in Victoria. He explained that together with Mr Bennavail he entered the apartment which had been rented to an Italian guy. He explained that this apartment was empty except for furniture, and he took note of works to be carried out such as painting, changing tiles and restoring a table.

On the 22<sup>nd</sup> March 2022, applicant's friend, **Xavier Wambergue**, was asked to explain what had happened on the 17<sup>th</sup> June 2020. The witness claimed that applicant had asked him to go to his apartment because the latter needed a silent witness because he wanted to confront his old tenant and wanted him to record everything. Present on the day was the Respondent and another man and the flat was empty. The witness continued to give evidence on the 24<sup>th</sup> June 2022 and confirmed in court the contents of the video he took of a meeting between Jean-Christophe Bennavil, Antonino Denaro, Mr Camilleri and himself, where it was seen that Mr Denaro had opened the apartment he used to rent. He claimed that at no time during the meeting were tools mentioned as the tools were mentioned on another occasion where Mr Denaro alleged that he had left expensive tools behind in the apartment. The witness also said that in the video it is shown that the readings of the electricity and water meters were done in the presence of all attending that meeting, and both Mr Bennavil as well as Mr Camilleri took pictures of said meters. He continued to state that certain items belonging to Antonio were already in the corridor and Antonio took them away, while leaving behind some rubbish. He ended his testimony by saying that during this meeting Antonio Denaro returned the keys to Mr Bennavil.

In another sitting, the same witness was shown the recording of the meeting and explained what was happening.

**Isabelle Farchy** presented an affidavit where she stated that around January / February 2018, applicant informed her that he had purchased a property in Fontana and even showed it to her. She stated that in June 2018, applicant hired Antonino Denaro to work on the restructuring of the property in Fontana which used to be one house into two apartments. She explained that in July 2019, applicant told her that Denaro had claimed that his theodolite laser equipment had been stolen from Jean-Christophe's property in Fontana. Applicant had asked her who had installed security cameras at her hotel in Victoria as he wished to do the same in his property.

**Considers that:**

The lease in question was contracted and regulated by a Lease Agreement, which the contending parties executed between them on the 1<sup>st</sup> June 2019. According to this Lease Agreement, Applicant let in favour of Respondent, with effect from 1<sup>st</sup> June 2019, the tenement at Flat 2, No, 45, 'St. Saviour', Kappillan G Hili Street, Fontana, Gozo, for a period of twelve (12) months, at the rent of four hundred and five Euro (€ 405) per month payable every month in advance. As security deposit, the sum of four hundred and five Euro (€ 405) was paid at the commencement of the Lease, subject to applicant's obligation to release said deposit in favour of Respondent at the termination of the lease, if all other stipulated conditions were satisfied. In addition to the rent, Respondent was obliged to pay for electricity, water, gas, telephone, television, internet and other services provided and furnished to the premises.

Upon examining and analysing the testimony, cross examinations as well as all documents presented, it results that while the applicant is insisting that respondent defaulted in his obligations to pay rent and also for the utility bills, respondent is claiming that the rent was being paid in kind given that he was carrying out works for plaintiff.

From the evidence in the acts of the proceedings, it results that

1. The applicant leased the property situated at Flat 2, Block 45, St. Saviour, Triq il-Kappillan Guzepp Hili Fontana Ghawdex to the Respondent, for a period of 12 months with effect from the 1<sup>st</sup> June 2019 till the 31<sup>st</sup> May 2020 for the amount of four hundred and five Euros (€ 405) per month payable monthly in advance.
2. The parties agreed that the Respondent was not to pay the rent for the first two [2] months due to the fact that the kitchen was not completed.
3. Respondent never paid rent as agreed to in the contract.
4. Applicant called upon the Respondent on various occasions even by means of a judicial letter to settle all rents due, bills relating to the water and electricity.
5. Respondent did not contest application's claims but maintained that the rent was set off with the works he was carrying out in applicant's properties.

**Considers that:**

This case involves a dispute between the parties whereby the applicant is requesting this Board to condemn the respondent to settle in his favor:

- (i) the alleged outstanding balance of four thousand and fifty Euro (€4,050) representing the rent between August 2019 and May 2019; (vide second and third requests);
- (ii) the sum of seven hundred and sixteen Euros and sixty one cents (€716.61c) representing the utility bills; (vide fourth and fifth requests);
- (iii) an amount by way of penalty or compensation till the date Respondent vacated the property i.e. 12<sup>th</sup> June 2020.
- (iv) The utility bills pending up until the date Respondent vacated the property;

Applicant is also requesting that the lease agreement be terminated and the respondent be evicted.

From the evidence brought by both parties, it results that there was a lease agreement between the parties. The lease agreement had expired. However, the Respondent continued to occupy the premises and only vacated on the 12<sup>th</sup> June 2020.

There is no doubt that the respondent failed to pay rent between August 2019 and May 2020 and that he failed to pay for the utilities. The respondent did not contest or deny any of what applicant stated but alleged that the amounts claimed were set off with works he carried out in other properties belonging to the applicant. Nonetheless, the Respondent failed to bring sufficient proof to substantiate his claim. He failed to explain what the amounts listed in the documents he presented represented. The Board notes that documents were presented by respondent but these were not explained under oath. No description of the works carried out was given. Not even the time frame when the works were allegedly carried out was explained to the Board.

Consequently, the Board notes that the Respondent failed to prove to the satisfaction of this Board that the amounts being claimed by applicant were in fact set off.

The lease agreement started on the 1<sup>st</sup> June 2019, for a term of 12 months for a monthly payment of €405. The Parties agreed that the respondent was not to pay rent for the first 2 months but had bound himself to pay rent for a total of 10 months amounting to four thousand and fifty Euros (€4,050). This Board, after deducting the security deposit paid in accordance with clause eight (8) of the Lease Agreement, notes that the rent arrears which Respondent still owes Applicant amounts to Euro three thousand six hundred and forty-five Euro (€3,645).

With regards to the utility bills, from the documents presented by Ms. Leanne Vella, Respondent consumed the following:

<b>Period</b>	<b>Electricity Consumption and Meter rental</b>	<b>Period</b>	<b>Water Consumption</b>	<b>Total</b>
15.06.2019 – 05.09.2019	€ 284.61c	15.06.2019 – 16.08.2019	€ 173.24c	€ 457.85c
06.09.2019 – 17.10.2019	€ 109.37c	17.08.2019 – 17.10.2019	€ 96.25c	€ 205.62c

18.10.2019 – 18.03.2020	€ 755.04c	18.10.2019 – 18.03.2020	€ 245.97	€1001.01c
19.03.2020 – 16.04.2020	€ 156.93	19.03.2020 – 16.04.2020	€ 58.62	€ 215.55c
17.04.2020 – 17.06.2020	€ 249.16c	17.04.2020 – 16.06.2020	€ 209.42c	€ 458.58c
<b>TOTAL</b>	<b>€1555.11c</b>	<b>TOTAL</b>	<b>€ 783.50c</b>	<b>€ 2338.61c</b>

Thus the total amount due according to the utility bills presented amounts to EUR 2338.61c.

That the Board notes that the Respondent did not in any way deny having consumed said services without having settled the final bills in terms of his contractual obligations. On the strength of the best evidence which applicant produced in this regard, the Board finds that his demands regarding the utility bills and meter rentals are to be acceded to.

Moreover, the applicant requested the Board to declare that respondent did not vacate the property on the 31<sup>st</sup> May 2020 and consequently to condemn him to pay a penalty or compensation for having illegally occupied the premises till the 12<sup>th</sup> day of June 2020.

The Board makes reference to the declaration made before this Board wherein both parties declared that the respondent vacated the property on the 12<sup>th</sup> June 2020.

The Board reiterates the importance of honoring one's obligations and that contracts are to be executed in good faith. It deems that it has been successfully proven that the Respondent failed to honor his obligations and vacate the property by the 31<sup>st</sup> May 2020, thereby failing to have a valid title on the same property between the 1<sup>st</sup> June 2020 and the 12<sup>th</sup> June 2020. The Board shall therefore condemn respondent to pay the sum of EUR 162 as compensation for having vacated the premises 12 days after the agreed date. This compensation was calculated by calculating the rental fee of 12 days in line with the monthly rate which was agreed originally between both parties.

## **Decide**

Thus, and in view of the above, and for the reasons outlined above, the Board decides as follows:

1. Abstains from taking further note of the first request since it had decided that there are grounds for the Respondent to file their reply within 20 days;
2. With regards to the second and third requests, accedes to both requests but condemns Respondent Antonino Denaro to pay Applicant the sum of three thousand six hundred and forty five Euros (€3,645).
3. Accedes to Applicant's fourth, fifth, ninth, tenth and eleventh requests in the sense that it condemns Respondent Antonino Denaro to pay the Applicant the sum of EUR 2338.61c;
4. Accedes to the sixth, seventh and eighth requests and condemns respondent Denaro to pay the sum EUR 162 as compensation for having vacated the said premises 12 days after the agreed term;
5. Abstains from taking further cognizance of the twelfth and thirteenth requests since respondent vacated the property;

All costs for these proceedings, including expenses incurred for the judicial letter as well as for the precautionary warrants are to be borne by the Respondent Antonino Denaro.

With interests to start running from the date of this judgement up to the date of effective payment.

(sgnd) Dr. Simone Grech  
Magistrate

(sgnd) Daniel Sacco  
D/Registrar

True Copy

f/Registrar

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