



Rent Regulation Board
Magistrate Dr. Leonard Caruana LL.D., M.A. (Fin. Serv)

Sworn Application No. 654//2021 LC

**Kris Catania (I.D. Number 327280M) as duly authorised on behalf
of Malcolm Attard (I.D. Number 5375M)**

VS

Ramazan Ertugrul
(I.D. Number 191900L)

Today, the 10th June 2024

The Board,

Having seen the sworn application dated the 20th September 2021 where the applicant requested this Board, for the reasons mentioned in the sworn application:

1. To decide the case in favour of the applicant's requests by waiving [recte: proceeding] without hearing the case in accordance to Article 16A of Cap. 69 of the Laws of Malta and this in view of the declaration therein mentioned;
2. In terms of the second proviso of Article 16A (1)(a) decide the request for eviction during the first hearing and therefore order the defendant's eviction from premises 146, Flat 1, 21st September Avenue, Naxxar within a short

period and this in accordance with such terms and condition as this Board may deem appropriate;

3. To authorise the applicant to change the lock of premises 146, Flat 1, 21st September Avenue, Naxxar as from 5 October 2021;
4. To declare that the respondent tenant failed to pay rent punctually;
5. To order the defendant to pay the applicant two hundred and fifty euros (€250) for each additional day he remains at premises 146, Flat 1, 21st September Avenue, Naxxar as from 5 October 2021 and this in terms of clause 3 of deed of lease of 5 October 2015;
6. To declare that the defendant is a debtor of the applicant and orders the respondent to pay the penalties due to the applicant in the amount of one thousand, one hundred and twenty euros (€1,120) calculated at the rate of seventy euros (€70) per month from May 2020 to September 2021, in addition to a penalty of seventy euros (€70) per month until the date of the effective eviction in terms of the clauses in the lease agreement;
7. To declare that the respondent should pay the sum of fourteen thousand, one hundred and twenty euros (€14,120) to the applicant representing costs due to the contractor for the remedial works following the damages caused by the defendant in property 146, Flat 1, 21st September Avenue, Naxxar;
8. To order the respondent to pay the arrears of rent in the amount of nine thousand, and eight hundred euros

(€9,800) calculated at the rate of seven hundred euros (€700) per month from July 2020 to September 2021;

With interests and costs, including those of judicial letter number 864/2021 dated 4 March 2021 and with costs against the respondent who is now summoned so [recte: to] testify with reference to his oath and subject to reservation of any further action in favour of the applicant due to him under the Law against the respondent.

Having seen the partial judgement of this Board delivered on the 24th November 2021 wherein the Board acceded to the second and third request and acceded, in part, to the first request whilst ordering the continuation of the case on the remaining requests, in accordance with the conditions stipulated by the Board.

Having seen the reply of the defendant to the remaining requests wherein he (i) accepted the eighth request for the payment of €9,800; (ii) he rejected all other claims as being unfounded in law and in fact (iii) pleaded that the claim for damages as liquidated by the claimant is at any rate excessive; (iv) declared that the defendant vacated the property in September 2021 and the applicant has already leased out the property to third parties.

Having seen the evidence brought by the parties;

Having heard the submissions;

Considers:

From the evidence produced it results that the apartment subject to this case is the property of Malcolm Attard and his wife Marica Attard. They rented out the property at 146, Flat 1, 21st September Avenue, Naxxar to the defendant on the 5th October 2015 for a period of six years,

renewable every two years. The property was then handed over to Belair Property Management in 2016 so that they manage it. The property was then being sublet by the defendant to third parties without the owners' consent. Also, it results that the defendant made considerable alterations to the property. Malcolm Attard also stated that the defendant was being late with the payment of rent and that he changed the bathroom to two separate showers and even opened an extra door in the corridor. The defendant also separated the sitting room from the dining room with a gypsum wall so as to create another bedroom. All these alterations were done without their permission.

From the testimony of a previous tenant, Diana Petrova it results that she vacated the apartment in September 2015. She also submitted a set of photos showing the condition of the property when she vacated it.

From the testimony of Kris Catania it results that he works with Belair Property Management and that he managed this apartment. He confirmed that at around October/November 2020 he and his colleague took photos showing the state of the apartment. He confirmed that the bathroom had been split into two using an aluminium wall. He said that when he confronted the defendant with these alterations, the defendant said that Malcolm Attard's father had consented to the alterations. When contacted, however, Mr Attard was appalled at the state of the apartment. He engaged a contractor to fix the apartment. He also confirmed that Mr Ramazan has arrears amounting to €11,775.80 for the period between April 2020 and September 2021 including a 10% penalty fee. The defendant was told about these arrears but he didn't do anything about it.

Mark O'Connor testified that he was engaged by Belair Property Management to issue a quote for the repairs to the apartment, which quote amounts to €14,120. This quote includes practically a refurbishing of the property.

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In his testimony, the defendant held that he rented this property to keep his employees who work in his shop close to the apartment. He admitted to being late in paying the rent and also that he owes the late penalties of €70. He denied causing the damages and stated that in fact he fixed some damages. He mentioned a certain Alexandra who could testify that when he entered the apartment, it was in a bad state. He also stated that he has photos of the property when he entered into it showing the bad condition. He confirmed that he divided the bathroom but stated he did it with the consent of Mr Joe Attard. He said that the works were carried out at his expense with Mr Attard's consent. He said that the owners had changed the key of the apartment and made another contract with a certain Attila who works with him.

Considered;

That from the reply and the testimony of the defendant it results that he admitted to being in arrears of rent. In fact, in his reply he admits having to pay €9,800 in arrears. In his testimony, on the other hand, he also admits to owing the €70 late payment fee to the plaintiff nomine.

From the table submitted at fol. 26 it results that according to Belair Property Management, the total of rent arrears and penalties between April 2020 and September 2021 amounts to €11,778.80.

Clause 2.1 of the lease agreement dated the 5th October 2015 stipulates that "*Should the tenant delay in paying the rent by more than fifteen (15) days, a 10% penalty will apply, which should be paid together with the rent.*" It has been proven that the rent was of €700 per month and therefore, 10% of this amount is equal to €70 and is due.

Basing on the above, the Board finds that the defendant failed to punctually pay the rent and is therefore debtor of the plaintiff nomine for the arrears of rent and the penalties as agreed.

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In the application, however, the plaintiff nomine requests the Board to condemn the defendant to pay the sum of €9,800 as rent arrears (vide the 8th request) together with the sum of €1,120 as penalties from May 2020 to September 2021 (vide the 6th request). Both claims taken together amount to €10,920, which amount is less than that indicated by Belair Property Management. The Board is bound by the demands of the plaintiff nomine and therefore will condemn the defendant to pay this amount as requested in the application.

Considered;

As regards the damages allegedly caused by the defendant, the plaintiff nomine states that when he handed over the property to the defendant, the property was in very good condition. In fact the previous tenant, Diana Petrova testified that she left the property in good condition and also submitted photos of the apartment upon her vacating it. From these photos, it is clear that the property was in very good condition. Kris Catania, on the other hand, submitted photos showing the state of the property during the lease, which photos clearly show the poor state of the property.

In his testimony, the defendant states that the property was already in poor condition when he started the tenancy and that a certain Alexandra could testify on this. He said that he also had photos and a video showing the poor state of the property. Unfortunately, Alexandra was not produced to testify and neither did the defendant produce any photos or videos on the state of the property notwithstanding that the defendant informed the Board about these photos in his testimony of the 24th November 2021 and mentioned them again (without producing them) in his testimony of the 20th March 2023.

The plaintiff nomine submitted an estimate of works, as confirmed by the contractor who prepared it, amounting to €14,120. The defendant did not

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contest this estimate and therefore the Board finds no reason to doubt the veracity of the estimate and of the damages caused.

Therefore, the Court accedes to the seventh request as it has been proven to the satisfaction of the Board.

Considers,

With regard to the fifth request, the plaintiff nomine asked the Board to condemn the defendant to a daily penalty of €250 for every day after the 5th October 2021 that the defendant remained in the property.

In his testimony of the 24th November 2021, the defendant held that he vacated the property a few weeks prior to that date. The plaintiff nomine, on the other hand, did not provide a precise date of when the defendant vacated the property. Therefore, the Board cannot establish with confidence the amount of days, after the 5th October 2021, during which the defendant had effective occupancy of the apartment.

Therefore, this fifth request has not been proven to the satisfaction of the Board.

Decide;

Therefore, on the basis of the above the Board is determining this case by:

1. Acceding to the fourth request and declares that the defendant was not punctual in paying the rent and consequently:
 - a. accedes to the sixth request and condemns and orders the defendant to pay the sum of €1,120 representing penalties for late payment;

- b. accedes to the eight request and condemns and orders the defendant to pay the sum of €9,800 representing arrears for rent;
2. Acceding to the seventh request and consequently condemns and orders the defendant to pay the sum of €14,120 representing damages caused to the property;
3. Denies the fifth request;
4. Denies the pleas of the Defendant;

With all expenses of this case, including the partial judgement delivered on the 24th November 2021 to be borne exclusively by the defendant and with the interests at the legal rate applicable from the date of this judgement.

Ft.Dr Leonard Caruana
Magistrate

Sharonne Borg
Deputy Registrar