



SMALL CLAIMS TRIBUNAL
EUROPEAN SMALL CLAIMS PROCEDURE

Adjudicator: Adv. Dr Christopher Chircop

Today 28th October 2024

Claim Number: 4/2023 CC1

Adrian Tanti

Vs

Mondo Convenienza

The Tribunal,

Having seen the Claim Form (Form A) filed by the claimant on the 30th of June, 2023 whereby the same, in line with EC Regulation no. 861/2007, the claimant requested the Tribunal to condemn defendant to pay him the sum of five hundred and seventy two euros (€572) for the reasons explained under Section 8 of the Claim Form.

While claimant demanded the costs of these proceedings, as per Section 7.3.1 of the Claim Form, he did not request interest on the indicated amount, as per Section 7.4 of the relative Claim Form

Having seen the decree of this Tribunal, whereby the Tribunal acceded to the claimant request and declared that the defendant is to be considered that it was duly notified according to the law since the defendant refused the notification of the claimant's claim.

Having seen that the defendant to date has not filed any response (Form C) in terms of Article 5(3) and/or 5(6) of EC Regulation no. 861/2007.

Having taken cognizance of all the acts and documents relating to the case and having noted that the claimant required no oral hearing.

The Tribunal considers:

The Tribunal notes that the Maltese Courts have consistently held that even in cases where defendant fails to oppose the claimant's claims, the Tribunal cannot automatically uphold claimant's claims, but must be satisfied that such claims are founded in fact and at law. The Tribunal shall therefore examine the documentation provided by the claimant.

The facts of the case are the following:

1. That the claimant purchased furniture from the defendant.
2. That the table was delivered to the claimant damaged, and the claimant contacted the defendant immediately.
3. That the claimant was informed that since seven days have elapsed from the collection of items from their store they can do nothing.
4. The claimant is insisting that the seven days to report a damaged item cannot apply to Malta because normally it takes around two weeks from the collection of furniture from Catania store by the importer till delivery.

5. That according to the claimant the damages consists of two large holes underneath the top of the table. The surface of the table is made of glass and since this was the most fragile part and was intact, it's impossible that the item was damaged by the importer during shipment.
6. That the table costed the claimant the sum of €380, shipping and lifter costed the claiming the sum of €140.

Along with the said Claim Form, the claimant submitted a written declaration whereby he gave a detailed description of the factual aspects of the episode relative to his claim. Claimant also submitted documentary evidence in support of his demands.

The Claimant has produced receipts to substantiate the amount being claimed.

Therefore, the Tribunal is convinced that the table was delivered to the claimant damaged and that the claimant spent the sum of €525.00c

The claimant is requesting the sum of €572 because he also included the cost of the proceedings (till the day that he filed the claim form).

The amount of €47 should be deducted from the amount that is being claimed by the claimant and this because this Tribunal is going to condemn the defendant to pay the aggregate sum of €525 to the claimant and that **all the expenses** connected with these proceedings are to be borne by the **defendant**.

Therefore the claimant can claim from the defendant all the expenses connected with these proceedings incurred by him and not only the sum of €47.

Decision

In the light of the above, the Tribunal proceeds to partially accede to claimant's request and condemns the defendant to pay the claimant the sum of five hundred and twenty five euros (€525).

No interest is to run on the said amount of five hundred and twenty five euros (€525).

All the expenses connected with these proceedings are to be borne by the defendant.

Finally, the Tribunal orders that a copy of this judgment is served upon the parties in terms of Article 13 of Regulation (EC) no. 861/2007.

ADV. DR. CHRISTOPHER CHIRCOP

Adjudicator

Rosanne Piscopo

Deputy Registrat