

**Small Claims Tribunal
(Gozo)**

Adjudicator Dr. Kevin Mompalao

Sitting of the 29th April, 2016

Claim Number 45/2015

Paul and Bernardina Attard

Vs

Heidi Guffler sive Gaffler.

The Tribunal;

Having seen the claim of the plaintiffs in which the same are claiming that the defendant be condemned to pay them the sum of six hundred and sixty six Euro and ninety eight cents only (€ 666.98) for water and electricity consumption in the property let to her by plaintiffs being Marvic 50 A, Liberat Grech street, Xaghra, Gozo. With costs including those of the legal letter dated the 9th May 2015 and the judicial letter number 418/2015.

Having seen the answer presented by the defendant, in which she pleads that the plaintiffs case is to be dismissed (1) because the amount requested is exaggerated (2) because defendant was for some time not occupying the property (3) that plaintiffs' claims are unfounded.

Having seen the counterclaim filed by the defendant wherein she claimed the sum of two hundred and thirty six Euro and forty cents (€236.40) from plaintiffs representing expenses incurred by her for taking care of cats according to plaintiffs instructions.

Having seen the answer filed by the plaintiffs to defendant's counterclaim, whereby they opposed defendants claim as unfounded.

Having heard all the evidence tendered by the parties and seen all the affidavits and documents submitted by the parties.

Having seen its decree of the 12th April 2016 whereby it was decreed that the case be adjourned for judgment.

Considers

That the Tribunal is convinced that this is a case which has been prolonged unnecessarily. Unfortunately the lawyers involved especially one of them was instrumental to give this case an unsuited dimension. It is the lawyer's duty to be practical and besides seeking the truth respect the same truth and refrain from trying to bring up unnecessary defences and frivolous claim to seek a remote or rather impossible way of debarring a claim.

The present claim is for the payment of water and electricity services in a house rented to defendant. It seems that after the lease was terminated and defendant moved out she left this particular bill unpaid. Excuses started cropping up like that the electricity meter was not registering correctly. This was dismissed by Enemalta in a test specifically carried for the purpose. An excuse that plaintiffs had a washing machine in the garage which was connected to the same meter was brought up. This Tribunal is convinced that plaintiffs version of events about this thing is the correct one. The washing machine was part of the furniture which the defendant did not want in the house leased, and so together with other furniture this was stored in the garage. It was always disconnected. Having a look at the other bills presented there were other bills in the same ambit as the one being contested. Moreover this Tribunal is convinced that defendant had an electricity heater as claimed by the plaintiff Bernardina Attard. Finally the Tribunal does not consider that a bill of € 666.98 for a family of three without the normally applicable subsidy (see bill) for the winter months is an exaggerated one. Therefore this Tribunal considers plaintiffs claim to be justified.

Defendant filed a counterclaim claiming the sum of € 236.40 in expenses for taking care of cats according to plaintiffs' instructions. First of all it is noted that this claim is not backed up by adequate receipts. Secondly the whole sorry was that plaintiff Bernardina Attard had found some stray cats, for which defendant was ready to take care. Plaintiff insists that she had only asked defendant to take the cats to the shelter and gave her a twenty Euro note to give as donation to the shelter. The Tribunal believes this version of events as it appears more credible. On the other hand if defendants allegations about the expenses are true it was only her choice to do all those expenses on a stray cat, when the shelter would have performed them for free. The Tribunal considers that this counter claim was simply brought up as an excuse to try to debar part of plaintiffs genuine claim. To a certain extent the counterclaim is frivolous and vexatious. But the Tribunal is not applying any provisions.

Thus in the circumstances of this case, this tribunal upholds plaintiff's claims and condemns defendant to pay them the sum of six hundred and sixty six Euro and ninety eight cents only (666.98) while on the other hand rejects defendants counter claim. All

expenses for both the claim and the counterclaim including those for the letters mentioned in the claim are to be borne by defendant.

Kevin Mompalao

Adjudicator

Daniel Sacco

D/Registrar