

**SMALL CLAIMS TRIBUNAL
(European Small Claims Procedure)**

Adjudicator Dr Anna Mallia

Date: - 16th May, 2019.

Claim Number:- 9/18 AM

Manfred and Sandra Spouses Unger

Vs

Paypal (Europe) S.a.f.l. et Cie, S.C.A. Societe en Commandite per Actions

The Tribunal,

Having seen the Claim Form (form A) filed by the claimants on 4th September, 2018 whereby the same in line with Regulation (EC) no. 861/2007 requested the Tribunal to condemn defendant to pay them the sum of three hundred and fifty four euros (€354) for the reasons explained in Section 8 of the Claim Form, namely for the refund of the said sum paid for the sale of a bag which bag was returned as it was not as described in agreement with the defendant, he returned the bag but the refund was never received by the claimant.

Took cognizance of all the acts and documents related to the case and having noted that the claimant required no oral hearing (vide section 8.3 of the Claim Form at fol. 6).

That defendant was served with the acts of these proceedings and filed Form C and a written declaration whereby they gave a detailed description of the factual aspects of the episode relative to the claim and contends that the claim should be dismissed because the defendant is not obliged to pay the amount of (three hundred and forty five euro (€345)

three hundred and twenty nine euro (€329) amount of sale and sixteen euro (€16) chargeback amount) namely because the credit card company of the buyer decided to reimburse the buyer; that until the PayPal case is resolved the buyer always can contact his credit card institution and file a chargeback. If a chargeback comes in before the PayPal claim is resolved, then sellers are not covered. By accepting credit card payments sellers face the risk of chargebacks and by opening a chargeback case the buyer at his credit card institute the defendant has no say anymore in the final decision.

That the Tribunal notes that the defendant filed Form C and the written declaration without payment of costs and made the payment after the filing of such documents. But since the Court Registry admitted Form C and the written declaration without the payment, this Tribunal rules that Form C and the written declaration are admissible at law.

The Tribunal considers:

That the claimant is requesting the refund of the sum of three hundred and fifty four euro (€354) the price he paid for the sale of a bag which bag was returned as it was not as described in the agreement.

That the respondent company claims that since the claimant opened a claim with the credit card company of the buyer in this case the claimant and he was reimbursed these expenses. The respondent also claims that until the PayPal case is resolved the buyer always can contact his credit card institution and file a chargeback. In this case this is what the claimant has done and in doing so, that is, in receiving a chargeback before the PayPal claim is resolved then sellers, that is, the claimant in this case, is not covered. The respondent company also contends that by accepting credit card payments sellers face the risk of chargebacks and by opening a chargeback case the buyer at his credit card institute the defendant has no say anymore in the final decision.

The Tribunal after having gone through all the documentation in particular that PayPal agreed to refund to the seller only a partial refund of eighty dollars (\$80), and the sum of three hundred and twenty nine euros (€329) is withheld in claimant's account until the

issue is resolved, and that the defendant did not contest that the bag was not as described in the agreement, and after careful consideration, is of the opinion that the claimant has managed to prove his case and orders the defendant company to pay the sum of three hundred and fifty four euros (€354).

All the expenses in this case are to be borne by the defendant company.

Dr Anna Mallia

Adjudicator