



IN THE SMALL CLAIMS TRIBUNAL

Adjudicator: Dr. Claudio Żammit

Sitting of Wednesday, 23rd September 2020

Claim number: 67/20 CZ

Aoife Ó Neill

vs.

Francesca Fazzina

The Tribunal,

Considered plaintiff's claim filed on 2nd March 2020 wherein she requested from defendant the payment of one thousand Euro (€1,000), representing cash paid for a deposit for rental of a property that was unlawfully kept by defendant, as no contractual obligations were in place.

Plaintiff also alleged that there was misleading advertisement and concealment of facts by letting agent Francesca Fazzina. Rental property was advertised as a private home but claimant found out later that the building owner, Daniela Magri, had an employee working from the garage adjacent to the ensuite bathroom in the rental property. Therefore, the employee or anyone with access to the garage could potentially enter the rental property via the stairs in the ensuite bathroom that leads to the garage.

Claimant is also requesting an additional five hundred Euro (€500) in damages to cover legal expenses and loss of earnings from having to prepare for this Tribunal.

The Tribunal:

Took cognisance of the acts;

Considered that defendant, duly served with the claim, did not file a reply;

The Tribunal notes that plaintiff in her written version of events refers to defendant Francesca Fazzina as Defendant number 1, and then names a certain Daniela Magri as Defendant Number 2. However, this case was initiated against only one defendant, that is Francesca Fazzina, as can be seen from the first page of the notice of claim. The Tribunal will therefore only consider Francesca Fazzina as defendant in this case.

The Tribunal considered that in today's sitting plaintiff gave her testimony, and confirmed that she had paid defendant the sum of one thousand Euro (€1,000) to secure a lease of a private home, which later turned out to be next to a garage/workshop, and from this garage one could have access to the ensuite bathroom of this home. Plaintiff thus did not accept to rent this property since it was incorrectly advertised and it was not what she needed.

Despite plaintiff's calls and reminders to defendant to refund back the one thousand Euro (€1,000) paid as deposit, this was never refunded.

Plaintiff stated that the one thousand Euro were passed on to the defendant, and she later received a photo of a receipt from Daniela Magri stating that the latter had received one thousand Euro. The Tribunal noted that the lease never materialised¹ and plaintiff did not move into the property that was intended to be leased. No contract or agreement between the parties was entered into regarding the lease of this property.

The Tribunal therefore considers that the request for the refund of one thousand Euro should be acceded to.

The Tribunal however notes that plaintiff claimed another five hundred Euro (€500) for damages to cover legal expenses and loss of earnings. Regarding the latter (loss of earnings), the Tribunal has no evidence indicating that plaintiff did in fact lose earnings. Regarding the legal expenses, the Tribunal will be ordering defendant to pay the costs of these proceedings, independently of how much they will be. Therefore it will not accede to the specific request of plaintiff, who is claiming a precise amount (500 Euro) from defendant.

The Tribunal therefore partially accedes to plaintiff's request and consequently orders defendant to pay to plaintiff the sum of one thousand Euro (€1,000) with interests from the date of the filing of this case till the date of final payment. The costs of this case shall be borne by defendant.

Dr. Claudio Zammit
Adjudicator

Mary Josette Musu'
Deputy Registrar

¹ Underlining by the Tribunal