

23rd. January, 1953.

Judges :—

His Honour Dr. L.A. Camilleri, LL.D., *President*;  
The Hon. Mr. Justice A.J. Montanaro Gauci, LL.D.;  
The Hon. Mr. Justice W. Harding, B.Litt., LL.D.  
Flight Lieut. William House *versus* Joseph Lautier

**Lease — Rent, Regulation Board — Jurisdiction —  
Hotel — Lodging House — Licence —  
Art. 46 of Chapter 109.**

*In terms of law, accomodation in a hotel or a lodging house licensed as such by the Police does not come within the jurisdiction of the law administered by the Rent Regulation Board.*

*But it is not enough that the place be so licensed; it is also required that the place be actually run as a hotel. So that a hotel without a licence does not fulfil the requirements of the law, and a licence*

*attached to premises which are not being run as a hotel falls equally short of the law.*

*The Police licence alone does not operate so as to determine the character of the premises.*

*Consequently, a person accommodated in premises which are licensed as a hotel, but are not actually run as a hotel, can apply to the Rent Regulation Board for assessment of the fair rent payable for that accommodation, and the question falls within the jurisdiction of the Rent Regulation Board.*

The Court — Upon seeing the application of the said House, who submits that he is paying £13. 10. 0 per month for the furnished flat no. 1 at "Sea Bank Flats", no. 14 Howard Street, Sliema, which he considers excessive, and prays that the fair rent payable by him for the said furnished flat be assessed by the Board;

Upon seeing defendant's reply, wherein he submits that the premises occupied by applicant do not fall within the jurisdiction of that Board, as they form part of a hotel duly licensed by the Police, and he purchased them as such from Colonel Stephen Borg;

*Omissis;*

Upon seeing the judgment delivered by the Board on the 16th. June, 1952, whereby the Board declared applicant debarred from the benefits of the provisions of Ordinance no. XVI of 1944, and as a consequence disallowed applicant's claim on its merits. The Board ordered that the costs be borne by applicant. The Board considered as follows;

That in this case there was a vital factor which makes it differ from the other three cases, namely, that the accommodation was taken by applicant during the ownership of defendant. From the evidence of applicant himself one gathered that he had been informed by the previous tenant, F/Lt. Roberts, that since the successful outcome of his action against the previous owner, to have his rent reduced, the place had been converted into a hotel. According to applicant himself, the first time he spoke to defendant's wife was two or three weeks after he had moved into the premises, and the fact alone that she spoke about flats does not in the least affect the position of the parties; because in this case the arguments used

in the two judgments quoted by defendant held good. It would have been otherwise had applicant been ignorant of the fact that the premises were licensed as a hotel, and had defendant or his wife given the applicant to understand that he or she were giving him the premises purely and simply as a furnished flat;

That, apart from the foregoing, the context of the evidence showed that defendant and his wife insisted from the beginning that the premises were an hotel.....;

That it was the Board's opinion that it was safe to assume that defendant, who had paid a very high price for the premises, would not so hastily prejudice his position as to admit that he was not giving on lease part of a hotel, but merely a furnished flat. In this case the transaction was carried out by defendant himself after purchase of the premises as a hotel, unlike the other cases, where he was in law bound to respect the tenancies existing before he came into the ownership of the premises;

That in this case, irrespectively of the circumstances enumerated in the judgment given in the case "Connor vs. Lautier", which would show that the premises are not a "bona fide" hotel, the fact remained that these premises were duly licensed by the Police as a hotel; and in default of positive evidence that the owner had waived these rights deriving to him from the nature of the premises, applicant could not enjoy the benefits accruing to tenants in terms of Ordinance no. XVI of 1944 (vide, in this case only, the judgments referred to by defendant in his note of submissions filed in the application in re "Connor vs. Lautier");

Upon seeing the application of plaintiff at page 9 of the record, filed before this Appellate Court, praying that the judgment given by the Board be reversed, and that the demand contained in plaintiff's original application before the Board be allowed, with costs;

*Omissis;*

Considers as follows;

The Board, in this case, came to a conclusion directly opposite to that reached in the three other cases, on the ground that the appellant had taken accomodation in the premises-

in question during the ownership of defendant and after plaintiff had been informed by the previous tenant, Roberts, that since the successful outcome of the action against the former owner for reduction of the rent the place had been converted into a hotel;

In the opinion of this Court, the decisive factor is identical in the present case as in the other cases. Whatever the previous tenant (repeating what defendant was artificially trying to contrive) may have said to plaintiff, whatever defendant himself may have said to plaintiff by way of expressing his contention that the place was a hotel, the basic fact remains that, in point of fact, the place is "not" being run as a hotel; and the law, as has been pointed out in the judgment given this day in the case "Simpson vs. Lautier", requires not only a licence, but a hotel actually run as such. If the place is not actually a hotel, then the exception contained in the law does not apply, and the Board is competent to deal with the case. The reasons given in the "Simpson" judgment are to be deemed as part of this judgment as well;

\ Consequently;

This Court allows the appeal and reverses the judgment of the Board, declaring that the case falls within the jurisdiction of the Board, and directing that the record be transmitted to that tribunal to be further dealt with. The costs already incurred before the Board, and those of this appeal, are to be borne by defendant.