



The tenant has no obligation to paint the walls when the lease ends.

Nothing is the clause that obliges a rented tenant to repaint the property at the end of the contract.

Maurizio Tarantino Lawyer - Court of Bari 11/20/2019.

The story. The Court, brought by Tizia (lessor), had declared the legitimacy of the withdrawal exercised by Caia (tenant) from the lease concerning the property and had rejected the other plaintiff requests, aimed at obtaining the resolution for breach of the contract of lease and condemnation of the tenant and Sempronio, guarantor of their obligations, to the payment of the condominium expenses, the unpaid rental fees, the costs of registering the contract and the painting costs of the apartment.

In the second instance, the Court of Appeal before Tizia, with the contested judgment, partially accepted the appeal, declared the contract terminated and sentenced the appellants jointly and severally to pay the sums requested.

Caia and Sempronio filed an appeal in cassation against this decision, pleading the violation of the law in relation to the request for reimbursement of the Istata differences on the rental fees.

Instead, the respondent, with an incidental appeal, contested the omitted examination of a fact decisive for the process, subject to discussion between the parties, or art. 4 of the lease contract as well as point 1 of the delivery report concerning and governing the painting costs of the apartment which the tenants had borne.

The reasoning of the Cassation. As for the main ground of appeal, according to the legitimacy judges, the contested judgment was not supported by a reasoning which allowed to understand the logical-juridical process that had led the court in question to liquidate a different sum as a failure to update Istat from that request, nor were there the conditions for correcting the decision, resorting to an uncertainty regarding the amount claimed. Consequently, this plea has been accepted.

On the other hand, as regards the landlord's complaint (incidental appeal), the Supreme Court highlighted that **the territorial Court had correctly excluded that the tenants had to repaint the apartment on the grounds** that "the conditions of the property are not due to the use of the same but with structural drawbacks", completely removed from the contractual obligations that required to repaint the property regardless of the reasons for the return.

In this regard, in fact, the constant jurisprudence of the Supreme Court is in the sense that "the clause that obliges the tenant to eliminate, at the end of the relationship, the consequences of the deterioration suffered by the rented property for its normal use (in this case, placing at its charged the cost of painting the walls) must be considered void, pursuant to art.79 of the same Law no.392 of 1978, because, by charging the tenant with an ordinary maintenance cost, which the law normally sets charged to the lessor (art. 1576 of the civil code), gives the latter an advantage in addition to the rent, the only legally agreed fee payable by the tenant "(Cass. 5/08/2002, n. 11703).

It follows that the **cost of painting cannot be paid by the tenant, given that the fact that after a certain period of time the furniture and paintings leave imprints on the walls is part of the normal degradation of use** (Cass. No. 4357 / 1984).

In conclusion, in light of all the foregoing, the Court of Cassation accepted the tenant's appeal



limited to a fourth reason; for the effect, the pronouncement was dismissed with postponement.

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