

Decision 22/2017 Travel Agency Commissioner - Area 2

Andreas Körösi
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Applicant: KENPONG TRAVEL & TOURS
IATA Code # 24-2 1092
Ghana

Respondent: International Air Transport Association (IATA)
King Abdullah II Street, Al Shaab Roundabout
Business Park, Building GH8
P.O. Box 940587
Amman 11194 Jordan

NOTE:

This summarized decision is being posted as the Parties have received it. Occasional requests for clarification are not posted. However, should any Stakeholder requests it, a copy of such clarification will be sent to her/him.

Decision:

Background:

Kenpong Travel was defaulted on June 1st, 2017 since payments to IATA were not received in IATA's account by May 31st. **Kenpong Travel** claimed that they had paid as usual, and have gotten a confirmation that the funds were available on IATA's account at 16:30 on May 31st.

IATA has provided evidence that the funds had not been credited to their account before June 1st, 2017.

Considerations:

The Travel Agency Commissioner's ("TACs") Office has established that if an Agent can provide evidence:

- a) of enough funds being available in its account, and,
- b) payment order to the bank has been sent allowing the bank to execute such transfer order on time

The Agent has to be considered having fulfilled its obligations to remit on time.

The reason/s for the delayed payment has to be attributed to elements outside the reasonable control of the Agent, and the TACs are not taking considerations if the delay was due to factors attributed to an Agent's or to IATA's banks when reinstatement without attached conditions have been ordered.

There is no doubt that it is an Agent's responsibility that the funds reach IATA's account by Due Date. This obligation has to be taken into account when "setting up" agreements with their banks to settle timely.

In this case the Applicant has stated, without IATA having refuted the statement, that the so called "cut off" time was not duly communicated by IATA to them, neither to the Travel Agency community in Ghana, nor to the their bank. Furthermore, the Applicant has provided evidence that they have, numerous times, remitted the exact same way and the funds had reached IATA's account on time.

Additionally, considering the statement from the Applicant's bank (*Energy Bank of Ghana*), I quote: <<*Our Bank of Ghana Statement, a copy of which can be sent you if need be, clearly shows that funds hit Standard Chartered account (in favour of IATA) with Bank of Ghana by 16:30 pm on 31st May, 2017*>>.

This statement alone is enough to exonerate ***Kenpong Travel*** from wrongdoing and, therefore,

Kenpong Travel has to be reinstated in full without further notice, and without the need to fulfill any reinstatement requirements earlier communicated to them.

This Decision is effective as of today.

Decided in Stockholm, on June 7th, 2017

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Res 820e § 2.10 any Party may ask for an interpretation or correction of any error in computation, any clerical or typographical error, or any error or omission of a similar nature which the Party may find relevant to this decision. The time frame for these types of requests will be maximum 15 calendar days after receipt of this decision. Meaning as soon as possible and **not later than June 22nd, 2017**.

Please also be advised that, unless I receive written notice from either one of you **before** the above mentioned date this decision will be published in the Travel Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Please note that if after having asked for and obtained clarification or correction any Party still considers aggrieved by this decision, as per Resolution 820e §4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 §14.

Please let me know if any of the Parties requires a signed hard copy of this decision and I will send one once the time for "interpretation or correction" has elapsed.