

DECISION 2015-04-01
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Muhammad Mustafa Travel Pvt Ltd.
Shop No 4 Afridi Jamrud Market
Near Govt High Secondary School No. 3
Khyber Bazar, Peshawar
Pakistan
Represented by Mr. Ahamad Ali, Manager

Respondent:

Agency Administrator, International Air Transport Association, IATA
Geneva, Switzerland
Represented by Ms. Nadya Widjaja, Manager Agency Management Asia/Pacific,
IATA, Singapore.

The Case and Decision

The Agent's accreditation was terminated on 29 January 2015 for failing to settle the second and last installment of PKR 189,851 (USD 1,841.55) as required by the agreed repayment plan. The amount was due on 27 January 2015.

In its justification for seeking a review of IATA's action the Agent stated that on the required date of settlement there was a political demonstration in the Agency office's area which closed all businesses. On the following day, the 28th when the banks had re-opened, payment was made, however, this did not appear in IATA's account until the 29th.

IATA stated that it had been considerate before taking action and despite numerous reminders the Agent had failed to honour the repayment schedule which resulted in the termination. The writer agrees with that description and confirms that IATA acted in full accord with the Rules.

Both Parties have been placed on notice, as required by sub paragraph 2.3 of Resolution 820e, that in the writer's judgement an oral hearing was not necessary and that a decision could be derived from the written information submitted by the Parties. The Agent did not comply with the "within 30 days" time limit proscribed in sub paragraph 1.2.2.1 of the same Resolution by not making its request for review until almost 2 weeks after the 30 day cut off date. When confronted with that

situation the Agent pleaded ignorance of that condition and pleaded that it be excused for same.

In considering this matter the writer accepts that he has allowed the review in full knowledge of the Agent's non-compliance with the time frame but has some empathy with the Agent with respect to being aware of the myriad conditions that apply to that role.

With regard to the late payment of the last settlement in the repayment plan the reason that payment was not made was beyond the control of the Agent, hence, the "force majeure " provision described in section 13.9 of Resolution 818g can be applied to this case.

Therefore, based on the foregoing, it is hereby decided as follows:-

1. The Agent is to be reinstated subject to submitting a new bank guarantee of an amount determined by IATA and paying for all fees associated with that action.

Decided this 1st day of April 2015 in Auckland.

Jorgen Foged
Travel Agency Commissioner Area 3

Notes:

1. As per Resolution 820e, Section 4, any Party has the right, if it considers itself aggrieved by this Decision, to seek review by Arbitration in accordance with the provisions of Resolution 824, Section 14.
2. The Parties are advised that according to Subparagraph 2.10 of Resolution 820e, any of them may request an interpretation of this Decision, or for a correction of any error in computation, any clerical or typographical error, or any omission in this Decision. Such request must be made within 15 days of receipt of the electronic version of this Decision.