

DECISION 2015-07-10

TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

BAEI Travels and Tours Ltd.
Tower Hamlet Kemal Ataturk,
Avenue Banani 1213
Dhaka, Bangladesh
Represented by Mr. Hasan Abdullah, Managing Director and CEO

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 was issued with a Notice of Irregularity (NoI) on 1 June 2015 for failing to settle a BSP billing on the remittance day of 31 May 2015. In addition, it was debited a Late Recovery Charge and Clearing Bank Charges as proscribed by sub paragraphs 1.7.1 (a) and (b) of Attachment "A" to Resolution 818g.

On 17 June 2015 the Agent contacted this Office with a request for a review of IATA's action and seeking removal of the NoI and the waiving of the Late Recovery Charge and Clearing Bank Charges. In its defence the Agent stated that on 31 May 2015 it had missed the 1600hrs closing time of the Clearing Bank by some 15-20 minutes due to traffic congestion on the route to the Bank. It had no intention of making a late payment and its cheque was cleared under the "evening deposit" process that day, a fact supported by a Bank Deposit Slip stamped "31 May 2015".

In its submission IATA stated that the Agent's payment was received after regular banking hours and as a consequence its cheque was included in the following day's receipts. Settlement to Airlines was made on 1 June 2015 based on funds received on 31 May 2015. In response to a question from the writer, IATA advised that as a result of special efforts they were able to include the Agent's payment with the general settlement with Airlines on 1 June 2015. They had acted in accordance with the relevant Passenger Sales Agency Rules and the fact that the Agent's payment had been included

in the settlement with Airlines was not a ground for the waiving of the Nol or the associated fees.

The Agent has complied with the 30 day time frame to seek a review as provided for in sub paragraph 1.2.2.1 of Resolution 820e and the Parties have been placed on notice that the writer has decided to base his decision on the written information submitted rather than to have an oral hearing as allowed in sub paragraph 2.3 of the same Resolution.

In considering this matter the writer has no argument with IATA's position that they acted in accordance with the Resolution. However, to the extent that there is a degree of "force majeure" in the marginally late delivery of the cheque to the Bank, I have some sympathy for the Agent's situation. There was no deliberate attempt to delay payment and the cause of the delay was to a longer than expected journey to make the payment. Under that circumstance I would expunge the Nol. I trust however in so doing, the Agent will deliver future payments in ample time prior to the closing time of the Clearing Bank.

The fact that the Agent's payment to Airlines was not delayed is a positive consideration.

On the matter of the charges debited against the Agent there were costs associated with the timing of the deposit and it is reasonable that these costs must be met by the Agent.

From the above it is expected that a valuable lesson has been learned by the Agent and that there will be no repetition of same.

Based on the foregoing, therefore, it is hereby decided as follows;-

1. The Notice of Irregularity issued to the Agent is to be expunged.
2. The Charges levied by IATA against the Agent are to be settled promptly.

Decided this 10th day of July 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.