

DECISION 2016-03-01
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road,
Remuera, Auckland 1050,
New Zealand

Applicant:

Dua Travel and Tours,
Office No 2, B-35, Block No 16,
Gulshan-E-Iqbal,
Karachi,
Pakistan.
Represented by Mr Tahir Gattaby, General 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.

On 26 January 2016 IATA issued the Agent with a Notice of Irregularity (NOI) for failing to settle its Annual Fee and demanding immediate payment. The Agent contacted this office on 2 February 2016 seeking removal of the NOI and to "advise IATA to make amends."

In its justification for seeking a review the Agent stated that it had made the payment of USD238.00 to IATA by credit card on 16 November 2015 and it received an "auto confirmation" as a consequence. On 14 January 2016 IATA advised that due to a "Payment Server Processing Error" the fee had not been paid and the Agent was to check with its credit card company.

In response the Agent, on 15 January 2016, sent IATA a scan of the acknowledgement and its bank statement which showed that the USD238.00 had been deducted from its account. On 19 January 2016 IATA advised that it had sent those documents to its Finance Team who were checking "at their end". On 26 January 2016 IATA stated that "our Finance Team has been liaising with Global Payments however there were issues that is causing the payment to not come through" and for the Agent to contact its bank "to check if there are any transactions.(of USD238) being held in your account and to cancel any transactions if there are any. Rest assure that our Finance Team is still constantly trying to solve the issue."

On the same day IATA issued the NOI and blocked the Agent's BSPLink and removed its ticketing authority. The Agent paid USD238.00 the following day and the BSPLink and the ticketing authority was restored. The Agent made the point that the restoration of " capping " was a long drawn out process similar to the exercise of a newly approved Agent and it took a minimum of 2 weeks and could take up to 3 months.

Asked by the writer to comment on the rigid application of the NOI when the Agent was told that investigations were being undertaken by the Finance Team IATA stated that:-

" The communication on 14 Jan 16 was based on our internal investigation on the failed payment advice received by our Finance team. The investigation on the online transaction proof provided by the Agent gives negative result again for which we informed agent on 26 Jan 16. Since the 1st communication on 14 Jan, agent should have checked with their bank on the failed transaction and made corrective payment immediately. We would appreciate if agent could advise if they have taken action to check with the bank on the failed transaction?

The irregularity served is in line with the Resolution 818g Paragraph 14.3. The agent's ticketing authority had never been deactivated as agent claimed below."

With regard to the Agent's statement that its access to BSPLink and ticketing had been removed IATA advised that " the access problem to BSPLink could be due to wrong login or password entered by the Agent or other technical issue."

The writer requested that the Agent should seek a written admission of payment failure from its Bank however this proved to be a difficult proposition as a Bank contact privately advised that the Bank did not want to declare any errors on its part which might lead to litigation and to date no formal response has been received to the Agent's request.

The Agent has complied with sub paragraph 1.2.2.1 of Resolution 820e and has lodged its request for a review within the 30 day time frame allowed and both parties were alerted, as required by sub paragraph 2.3 of the same Resolution, that in the writer's judgement an oral hearing is not necessary and that the decision would be based on the written information submitted.

In considering this matter the writer can accept that the Agent could be under the impression that, having had proof of the USD238 being deducted from its account and IATA advising that it was investigating the matter, the NOI was a complete surprise. Furthermore whether inadvertently or through some technical issue the fact is that the Agent did loose its ticketing authority.

This office has no authority to "advise IATA to make amends" however based on the foregoing the writer finds that IATA did not describe its requirements of the Agent as clearly as it might and as a consequence it is hereby decided as follows:-

1. The Notice of Irregularity issued to the Agent is to be expunged with immediate effect and all parties alerted to the issuance of same should be made aware of that action.

Decided this 1st day of March 2016 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.