

DECISION 2017- 05-02
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Al-Harmain Services (Pvt) Ltd
Office 9, 1st Floor P.M.A. House
Liaquat Road
Rawalpindi, Pakistan.
Represented by Mr. Fahad Mobin, Chief Executive.

Respondent:

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

The Case and Decision

The Agent was issued with a Notice of Irregularity (NoI) and was ultimately declared in default. This situation arose as a result of the Agent receiving an ACM for PKR 500,000 (USD 4,689.00) from an Airline not intended for that Agent. The reason IATA took the NoI/default action was that having received IATA's instructions to make immediate payment on 18 April 2017 by no later than 19 April 2017 the Agent paid by cheque on the 19th. However, value was not received by IATA by the end of the grace period as a further day was required for clearance, so the Agent was placed in default on 20 April 2017.

In its defence the Agent stated that it could not pay IATA until it had received the value of the ACM in its Bank account and the weekend delayed that process. The Agent considered itself the third party in an issue between the Airline and IATA and it had made every effort to co-operate with the Parties. The Agency's owner sought a personal meeting with the writer to explain the circumstances with a view to having the NoI removed from its record.

IATA commented that the Agent had feasible time to clear the cheque before the ADM rectifying the mistake was due for payment and failure to do so had incurred the sanctions proscribed by the Passenger Sales Agency Rules.

In considering this matter the overriding factor is the Agency owner's apparent earnest attempts to resolve the issue caused by the mistakenly issued ACM. The

default action could have been avoided had the Agent made a direct credit to IATA's account on the 19th; however, the intent to settle was clear. IATA has acted in accordance with the Rules and had no room for discretion. That discretion, however, can be exercised by this Office.

The Agent has met the terms of Resolution 820e and both Parties were placed on notice, as required by sub paragraph 2.3 of that Resolution, of the writer's intention to render a decision based on the written information submitted.

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

1. The Notice of Irregularity issued to the Agent, together with the default action taken, are to be removed from the Agent's record and Airlines are to be advised of same.

Decided this 2nd day of May 2017 in Auckland.

Jorgen Foged
Travel Agency Commissioner Area 3

Notes:

1. 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.
2. If after having asked for and obtained clarification or correction, any Party still considers aggrieved by this decision, the Party has the right to seek review by arbitration, in accordance with the provisions of Resolution 820e Section 4 and Resolution 824 Section 14.