

Decision 65/2017

Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
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Applicant: Suntrade
IATA Code # 20-2 6208
France

Respondent: International Air Transport Association (IATA)
Torre Europa
Paseo de la Castellana, número 95
28046 Madrid, Spain

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.

Background:

IATA's default action undertaken against the Applicant was the result of the non-receipt of 8,104.61 €, corresponding the BSP Sales Report. The situation was caused by a technical problem at the Applicant's bank ("HSBC").

The Applicant claimed and provided proof of the following facts:

*<<I received a demand for immediate payment from IATA on 18 Dec. and a notice of 2 irregularities on 18Dec. at 15h09;
We ordered an immediate payment on 18Dec. at 18h38;
We send the proof of bank transfer on 19Dec. at 11H48 and ask for a confirmation of good reception by IATA;
An IATA Agent (Stepaan) confirms us the reception of the payment on 19Dec. at 18h04;
Since then I perfectly understand that I need a letter from my bank to clear those 2 irregularities and I will obtain it; BUT, the issue is that despite those confirmations, we have been declared in default on 20Dec. at 15h30 (4 irregularities?)>>*

IATA's arguments were:

<<We have reviewed the case with Remittance and Settlement department.

As per their feedback IATA got a rejection for a period 20171206D, the remittance date was on 11 December, we opened the case on 18 December. On this day double irregularities were recorded for the agent. On that day the demand of payment was sent to the agent. The grace period was on 19 December close of business.

If the agent would have paid either on 18/12/2017 or with an urgent transfer on 19/12/2017 we would have received the money on 19/12/2017 and no default action would be taken.

Since money were not on IATA account on 19 December close of business, on 20 December the agent was placed under default.

The Remittance and Settlement department has confirmed also that the amount is received.

For the reinstatement the agent should pay all its subsequent sales till the default day. The financial security provided is sufficient if the agent continue to remit daily by direct debit.

If the rejection of above mentioned payment was due to technical issue in agent's bank we need to receive a bank letter stating that there were sufficient funds and the reason for failure.

And the agent will be reinstated without further delay and irregularity and default will be withdrawn>>.

The Applicant explained what it had occurred with his bank in the following terms:

<<We have chosen to change our remittance period to daily in order to provide a reasonable bank guarantee at the end of November;

- This change was effective on Dec. 1st and we provide the bank guarantee at this date;

- The bank guarantee has been provided by Caisse D'Epargne while our previous «IATA transfer» bank was HSBC;

- We then decided to change our bank for IATA payment and have noticed HSBC of this project of change;

- We then realized that the procedure of bank changing would be tough especially with daily payment. We postponed our decision;

- HSBC rejected the 8.104,61 € payment on Dec 11th but realizing the mistake, they resumed the payments the next day (53K€ on Dec 12; 26K on Dec14; 265k€ on Dec 15 - including the last weekly period we owed; 40K€ on Dec16, etc...);

- We still not find any trace of the 2 first irregularities, which would have been notified to us>>*

The Applicant also provided a bank letter from HSBC explaining the technical error at their end.

Decision:

After having reread the submissions I have come to the conclusion that:

- The late payment was outside the control of *Suntrade*;
- The Applicant must be reinstated immediately and the Nol served against it must be expunged from its records.

This Decision is effective as of today.

Decided in Stockholm, on December 23rd, 2017

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Resolution 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 January 7th, 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.