

DECISION 2019 - 11 - 21
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Travel Companion (the “Agent”)
Srinagar, India.

Respondent:

Agency Administrator, International Air Transport Association (“IATA”)
Singapore.

The Case and Decision:

The entity's application for accreditation was disapproved by IATA on the grounds that it failed to submit a bank guarantee by the deadline date set.

In its request for a review the Applicant made the following statement:

"We had applied for IATA accreditation and had completed all the documentation for the same within stipulated time. All the documents had been accepted and IATA number was issued as well. At the end, we were just required to submit the bank guarantee by 28th AUGUST 2019.

As you might know that on 5th August, the political turmoil started in Kashmir valley. There was complete communication blackout. All the phone networks were snapped and internet was shut down on the same day. Since, the phones lines have been restored as of now but internet services are still blocked past 04 months (This is an International issue right now). There was complete curfew and banks were shut for months. I have come to New Delhi to check my emails.

Due to the above reasons, we could not send the bank guarantee within the stipulated time."

IATA's summary of events reflected the non-response by the Applicant to its messages and did not rebut any of the Applicant's statements.

In considering this matter it is appropriate to apply the "*Force Majeure*" provision described in sub paragraph 13.2.3 of Resolution 812. There are a number of "causes"

described in 13.2.3.1(a) that could be cited as the factor(s) that has/have affected the Applicant's ability to meet IATA's requirements hence another opportunity should be granted for the Applicant to be accredited.

The Parties were placed on notice that in the writer's judgement an oral hearing was not necessary and that this decision would be based on the written information submitted.

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

1. the entity's application for accreditation is to be progressed and if found in conformity with the criteria must receive accreditation.

Decided this 21st day of November 2019 in Auckland.

This Decision is effective immediately. The following sub paragraphs of Resolution 820e are brought to the attention of the Parties:

"2.9 - within 15 days after the receipt of the decision, a party, with notice to the other parties, may request that the Commissioner gives an interpretation of the decision or correct in the decision any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the Commissioner considers that the request is justified, he shall make the interpretation or correction within 15 days of receipt of the request. The interpretation or correction shall form part of the decision."

"2.10 - within 30 days after the receipt of the decision or an interpreted or clarified decision pursuant to paragraph 2.8 hereinabove, a party, with notice to the other parties may request that the decision be reviewed by a majority decision of all of the Commissioners."

In this particular case the 15 day time frame expires on 6 December 2019 and the 30 day time frame expires on 21 December 2019.

If after having pursued this process a Party still considers itself aggrieved by this Decision the Party has the right to seek review by arbitration as detailed in Resolution 824, Section 14.

Finally, I seek your authority for this Decision to be posted on the private pages of the Travel Agency Commissioner website which can only be accessed by the 3 TACs and the 12 members of the Passenger Agency Programme Global Joint Council. In the absence of advice to the contrary by 19 December 2019 I will assume that there is no objection to that action being taken.

A signed copy of the decision will be emailed to the parties.

Jorgen Foged
Travel Agency Commissioner Area 3