



# Civil Resolution Tribunal

Date Issued: September 17, 2018

File: SC-2017-007278

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aria v. Plan-It With Pam Holidays Ltd.*, 2018 BCCRT 526

**BETWEEN:**

Arman Aria

**APPLICANT**

**AND:**

Plan-It With Pam Holidays Ltd.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell

## **INTRODUCTION**

1. This is a dispute about an airline ticket. The applicant, Arman Aria, says the respondent, Plan-It With Pam Holidays Ltd., spelled his minor son's middle name wrong on an airline ticket it issued, and as a result the airline refused to allow his son on the return flight.
2. The applicant seeks reimbursement of \$1,458.02 in costs incurred or wasted due to his son's delayed return.
3. The respondent admits the misspelling, but says the applicant has not proved that his son and wife were denied boarding because of that error. The respondent also says the applicant's wife, Ms. Lotfifar, should have insisted that the misspelling be corrected when she discovered the error before the ticket was issued.
4. The applicant is self-represented. The respondent is represented by its manager, Dean Malik.

## **JURISDICTION AND PROCEDURE**

5. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions because I find that there are no significant issues of credibility or other reasons that might require an oral hearing. Neither party requested an oral hearing.

7. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
8. Under tribunal rule 126, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

9. The issue in this dispute is whether the respondent must compensate the applicant for expenses arising from the ticket error, and if so, how much.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. The parties agree that the applicant bought airline tickets for his wife and son to travel from Canada to Iran, returning to Canada on December 1, 2017. The son was less than 2 years old at the time of the proposed trip, so he could travel with his mother without paying a separate fare.
12. Ms. Lotfifar and her son travelled from Canada to Iran without incident on the airline Lufthansa. The return ticket was for British Airways, and Ms. Lotfifar and her son were denied boarding.
13. The parties agree that the applicant made the initial flight reservation by telephone. They agree that before the trip, Ms. Lotfifar checked the reservation at the respondent's business location and pointed out to the respondent's employee, Ms. Purvis, that the son's middle name was misspelled. Mr. Malik says at that time,

Ms. Purvis told Ms. Lotfifar that the middle name is not always that important, as airlines look at the first and last names.

14. The applicant says the respondent was negligent, and that it breached its fiduciary duty by failing to correct the spelling error before the trip, and by making a false representation that the misspelling would not be a problem.
15. Based on the facts before me, I find the respondent was negligent. The general elements of a negligence claim are: the respondent owes a duty of care, the respondent failed to meet a reasonable standard of care, it was reasonably foreseeable that the respondent's failure to meet that standard could cause the applicant's damages, and the failure did cause the claimed damages.
16. I find the respondent owed the applicant a duty of care due to their customer/agent relationship regarding professional travel booking services. I find that a reasonable standard of care for such service is to issue usable airline tickets. The applicant provided a copy of a December 9, 2017 email from British Airways that stated as follows:

I've checked our records and see that the name of your child on the booking and on the ticket did not match. This was the only reason for you not being allowed to board your flight.
17. Mr. Malik admits the respondent knew about the error before the ticket was issued, but did not change it because Ms. Purvis did not think it was important. The email from British Airways confirms that the misspelling was important, and was the sole reason Ms. Lotfifar and her son were not permitted on the flight. Thus, due to the initial spelling mistake and the incorrect advice about the need to change, the applicant was sold an unusable ticket.
18. Mr. Malik says Ms. Lotfifar should have insisted that the misspelling be changed when she first noticed it, and did not have to accept the reservation. I disagree. By using a travel agent to purchase tickets, the applicant and Ms. Lotfifar had a

reasonable expectation that the travel agent would issue usable tickets. The duty of care lies with the respondent, not with the applicant or Ms. Lotfifar.

19. Mr. Malik also says the main reason the applicant's son and wife were denied boarding was because the applicant's wife, Ms. Lotfifar, has two passports, each with different names. This assertion is disproved by the December 9, 2017 email from British Airways, and is not supported by other evidence.
20. The respondent provided a printout from British Airways' website, which discussed middle names. That site says customers do not have to add middle names when booking, if their first and last names are correct and match their passport. The site also says that if spaces are missed between names, this does not matter. However, the site does not say that misspelled middle names are permissible. For that reason, I find the website evidence does not contradict the direct evidence set out in British Airways' December 9, 2017. I also note that the email addresses the specific booking in dispute, unlike the general information on the website.
21. Contrary to the respondent's submissions, the fact that Ms. Lotfifar and her son were able to travel on Lufthansa without incident does not establish that the respondent has no liability for their denied flight on British Airways. This is because British Airways is a separate airline with its own rules, and its email confirms that the misspelling was the sole reason for the denied boarding.
22. I also find that it was reasonably foreseeable that the respondent's failure to issue a usable airline ticket could cause the applicant's damages related to travel delays. In making this finding, I place significant weight on the October 31, 2017 "electronic ticket" document issued by the respondent. In contrasting red letters at the top of the page, it states:

\*The spelling of the passenger's names must be identical as the ones shown on their passport

\*The middle name is required if present on the passenger's passport and must be added to the "secure flight" information

23. This document establishes that the respondent knew or ought reasonably to have known that it was necessary to spell all middle names correctly.

### ***Remedies***

24. For the reasons set out above, I find the applicant is entitled remedies for the respondent's negligence.

### ***New Ticket***

25. The applicant requests \$782.02 for a December 3, 2017 airline ticket for his son, and has provided a receipt to support this amount. The parties agree that although the son could have flown for free on December 1, 2017, by the time of the next available flight on December 3, 2017 he had turned 2 and fare was required. The evidence indicates that the trip was specifically planned for December 1, 2017 to avoid this fare.
26. I find that the extra ticket cost was reasonably foreseeable given the son's age, so the respondent is liable for it. I order the respondent to pay the applicant \$782.02 for the new ticket. The respondent already paid the ticket change fee for Ms. Lotfifar's ticket, so that is not ordered.

### ***Travel Costs in Iran***

27. The applicant claims \$110 for hotel costs from December 1 to 3, 2017, plus \$120 for meals and \$110 for taxis. While these types of expenses were foreseeable, the applicant has not provided any receipts or invoices to support these amounts, or particulars such as the name of the hotel. For that reason, I order reimbursement of the nominal amount of \$200 for all these expenses, on a judgment basis.

## ***Birthday Party***

28. The applicant claims \$350 for products purchased for his son's birthday party, which was missed. I find that a \$350 birthday party was not a reasonably foreseeable cost arising from the respondent's negligence. Also, the applicant has not provided receipts for these products, or any particulars. For these reasons, I do not order reimbursement of birthday party expenses.
29. The applicant is entitled to prejudgment interest for the \$768.02 airplane ticket, pursuant to the *Court Order Interest Act* (COIA), as set out below in my order.
30. The tribunal's rules provide that the successful party is generally entitled to recovery of their fees and expenses. The applicant was substantially successful, so I order that the respondent reimburse \$125 paid in tribunal fees.
31. The applicant claimed \$10.50 for registered mail expenses. While he did not provide a receipt, I find, on a judgment basis, that he is entitled to reimbursement of \$10.50 for dispute-related registered mail.
32. The applicant claimed \$25 for a consultation with a lawyer. As set out in the tribunal's rules, the tribunal generally does not order reimbursement of legal fees. This follows from the general rule in section 20(1) of the Act that parties are to represent themselves in tribunal proceedings. I see no reason to depart from this general rule in this case, and therefore I do not order reimbursement of legal fees.

## **ORDERS**

33. I order that within 30 days of this decision, the respondent pay the applicant a total of \$1,112.82, broken down as follows:
  - a. \$768.02 for the replacement airplane ticket,
  - b. \$200.00 for additional travel expenses,
  - c. \$9.30 as prejudgment interest under the COIA, and

- d. \$135.50 for tribunal fees and dispute-related expenses.
34. The applicant is also entitled to post-judgment interest under the COIA.
  35. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
  36. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Kate Campbell, Tribunal Member