



Civil Resolution Tribunal

Date Issued: October 1, 2018

File: SC-2017-005417

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Eminov v. Travel 2000 Agency*, 2018 BCCRT 575

BETWEEN:

Novruz Eminov

APPLICANT

AND:

Travel 2000 Agency

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about a missed flight. The applicant, Novruz Eminov, says he and his family missed their flight in Paris to return to Vancouver, B.C., due to having insufficient time to get between terminals and pick up their luggage. The applicant

says the respondent, Travel 2000 Agency, sold him the ticket and failed to ensure he had at least 3 hours between flights. The applicant seeks \$4,200, as a refund for the flight he missed. The applicant is self-represented and the respondent is represented by a principal or employee.

JURISDICTION AND PROCEDURE

2. These are the tribunal's formal written reasons. 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.
3. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I find that I am properly able to assess and weigh the documentary evidence and submissions before me, without an oral hearing.
4. 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.
5. 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.

ISSUE

6. The issues in this dispute are a) whether the respondent is responsible for the applicant having missed his flight, and b) if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

7. I have only commented on the evidence and submissions to the extent necessary to give context to these reasons. In a civil dispute such as this, the applicant bears the burden of proof on a balance of probabilities.
8. The applicant submits the respondent's itinerary had "obviously unworkable" flight connection conditions. The applicant says he missed his connecting flight in Paris to return to Vancouver because he had only a short time between terminals 2 and 3. He also says his family had to pick up their luggage in a 1 hour and 40 minute span. The applicant says that when he called Air Transat, they told him there should be at least 3 hours between flights. The applicant says that Air Transat refused a refund on the basis that it was the applicant's fault for missing the flight.
9. The applicant's Baku to Paris flight had his family arrive in Paris on August 31, 2017 at 10:20 a.m. The flight he missed, from Paris to Vancouver, was scheduled to leave at 12:00 p.m. on August 31, 2017, an hour and 40 minutes after the Baku flight was scheduled to land.
10. The respondent says that the applicant bought airline tickets from it, for his then upcoming trip overseas. At the time of purchase, the applicant expressly chose not to buy trip cancellation travel insurance, despite the respondent saying it was "highly recommended". The respondent says the applicant chose 1 itinerary out of 4 that it offered him. The respondent says that itinerary had sufficient time in Paris for a smooth connection. The applicant chose the least expensive option and that had a shorter connection time in Paris. I also note that the respondent's handwritten notes of the applicant's flight connection criteria included "no long wait" at the airport. The respondent says all travelers are responsible for arriving on time to the gates.
11. As for the respondent's submission that there was sufficient time for the flight connection, the applicant says "all this is calculated for the average person". The

applicant says when the respondent sold him the airline tickets, they knew he was travelling with 4 kids and a sick wife, and yet they did not warn him about the “very short period of time” that he would have to make the connection. He says this failure “played a decisive role” in his missing the connection.

12. To the extent the applicant alleges, this is a breach of a contract, I find that claim is not proven. The parties’ contract does not guarantee making a flight connection and the respondent clearly recommended trip cancellation insurance.
13. I find the applicant’s claim primarily is based in negligence. 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.
14. I find the applicant’s claim cannot succeed. I find that while the respondent owed the applicant a duty of care to its customer, the applicant has not proved the respondent breached the relevant standard of care, which I find was to provide the customer with reasonable information so he could make an informed choice. I find the respondent did that.
15. In particular, the applicant does not dispute that he was offered 4 different itineraries, and he chose the one he did. He also does not dispute he has travelled with his family before and therefore would understand what is required for a flight connection. I also note the respondent’s undisputed evidence that the applicant’s flight from Baku into Paris was 21 minutes late, which is not within the respondent’s control. I find that if the applicant had bought travel insurance, he may have been protected for the missed flight. But it is undisputed that he opted not to buy it.
16. Given my conclusion above, as the applicant was not successful I find he is not entitled to reimbursement of tribunal fees.

ORDER

17. I order that the applicant's claims, and therefore this dispute, are dismissed.

Shelley Lopez, Vice Chair