

M. T. v. R (The Cancelled Flight Case)

KEYWORDS:

delayed flight – consumer – passenger – flight – compensation – flight delay – air carrier – cancellation of the flight – cancelled flight

FACTS:

The client purchase from the air carrier R. a flight ticket for 31 May 2018 for a flight from London to Ostrava, the time of the departure at 17:25. She had not been informed in advance about any delays of the flight.

On the day of the departure, the client arrived at the airport. The check-in and the boarding had been significantly delayed (tens of minutes). Finally, all passengers were allowed to board the aircraft. The aircraft started to roll; however, it was still waiting for the take-off clearance. After two hours from the time of the planned departure, the captain informed the passengers that the flight was cancelled due to airport ground staff strike and that because of the long delayed, the aircraft personnel would not be able to return to the base airport at time form legal break at work. The client was informed about her rights under the Regulation (EC) No. 261/2004 by a text message and an e-mail.

The client, thus, had to return to the place of her previous stay in the UK and made a new reservation for 2 June 2018. The client, thus, had to take additional two days of annual leave and spent 70 GBP for train tickets back to the place of her stay and again to the airport. Moreover, the situation was significantly stressful and exhausting for her as she had to spent one whole night at the airport.

The air carrier later justified the flight cancellation by bad weather which is, however, not in the line with the information provided by the captain immediately after the flight had been cancelled. Moreover, other aircrafts were taking-off and landing at the same airport at the time of the planned departure.

In July 2018, the client claimed compensation for the cancelled flight with the air carrier company. The claim was, though, rejected as the company claimed that the flight had to be cancelled due to unsatisfactory weather conditions.

The client visited the Students Legal Aid Office requesting the information on how to proceed in order to receive the compensation.

LEGAL ANALYSIS:

In the present case, it was necessary to analyse how should the client further proceed after her claim has been rejected by the air carrier company in breach of the relevant EU regulation.

Legal provisions with specific reference to EU directive when applying:

Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 on common rules for compensation and assistance for passengers in the event of denied boarding and in the event of flight cancellation or long delay, and repealing the regulation (EEC) No. 295/91

LEGAL SOLUTION:

The client has been informed that she, indeed, had right to the compensation for the cancelled flight. It is clear from the evidence submitted that the unsatisfactory weather conditions were not the genuine reason for the flight cancellation.

The client was informed that as she already claimed the compensation with the air carrier, she now has four possible steps to take:

1. She may make contact one of the private companies specialised on debt collection against air carriers, such as Click2Claim s.r.o. Those companies would claim a proportional part of the compensation collected; however, they have a very good success rate.
2. She may also decide to lodge an action with the court with or without legal representation.
3. She also has the possibility to contact the Civil Aviation Authority which oversees the compliance with the cited EU regulation. She would, though, have to apply to the British authority in English. She was also informed that the success rate of this method is rather low.
4. Lastly, she may contact European Consumer Center who would assist her, free of charge, in the attempt to reach an amicable solution with the air carrier.

SUGGESTED SOLUTION:

It was suggested to the client to consider the services of one of the private debt collection companies as the price is rather low, the process is simple and the success rate is high.

SPECIFIC REMARKS: