



TANZANIA CIVIL AVIATION AUTHORITY

DECISION OF THE COMMITTEE OF THE AUTHORITY ON THE CONSUMER COMPLAINT

BETWEEN

Eng. MARTIN KIMBAVALA.....COMPLAINANT

AND

FASTJET RESPONDENT

DECISION NO. 1 OF 2017

On 17 August 2016, the Authority received a complaint from one Eng. Martin Jonas Kimbavala the complainant against Fast Jet the respondent.

The complainant was among the passengers planned to travel from Dar es Salaam to Mwanza by flight number FN 0147 on 29 April 2016 at 1945hrs. He arrived at JNIA at 1815hrs. While in a queue for checking in; he together with other passengers were informed that the flight was full. They were advised to travel the next day 30 April 2016 at 0600hrs. The complainant was traveling to meet his prospective client Mr. Moses Matondo the owner of Fly Motel in Kampala. The meeting could not take place due to complainant's absence and Mr Matondo had to leave on 30 April 2016 at 0600hrs. Complainant alleges that his failure to meet Mr. Matondo has caused a loss of business worth 35,000,000/- which he was to earn as profit. Following that loss he communicated to Fast Jet through his lawyers, Astute Law Attorney vide a letter of 14 May 2016. The complainant met the respondent's representative (Gabriel Attorneys At Law) on 11 July 2016 and was offered two free return tickets which he declined to accept thus decided to pursue his remedies through TCAA Consumer Complaints Unit (CCU). After receiving the complaint, CCU communicated with respondent through its letter of 18 August 2016; giving them 7 days to resolve the matter amicably. Fast Jet in reply, offered the complainant two free air tickets (go and return) to a place within Fast Jet network; which was valid for 3 months from the date of acceptance. The offer was communicated to the complainant by CCU via its letter of 26 August 2016. The complainant declined the offer and insisted the payment of damages of 35,000,000/-

In addition to its effort to try to settle this complaint CCU met with respondent's representatives Eng. August Kowero, David Marwa and Christine Kauson. The respondent insisted its position that the only remedy it could offer was two free return tickets which the respondent alleges that the complainant accepted but no proof of acceptance of such tickets was provided.

CCU referred the complaint to the Committee of the Authority for decision as required by Rule 10 of the Civil Aviation (Procedure for Complaints Handling Rules, 2009).

The hearing at the Committee was attended by Mr. Malik M. Hanif (Chairperson), Mr. Jaffari K. Mpilli (Member), Mr. Hamza S. Johari (Member), Mr. Vallery Chamulungu (Secretary of the Board of Directors) and Ms. Massa K. Mumburi (Secretary to the CCU). The Complainant appeared in person. The Respondent was represented by Eng. August Kowero, Head of Government and Regulatory Affairs and Ms. Ivone Sianga Advocate from Gabriel and Co. Attorney.

The complainant Engineer Martin Kimbavala stated that; He is a director of Vyuka solutions Co. Ltd. By virtue of his position he has been travelling with FastJet. On 28 April 2016 he arrived from China. He wanted to go to Mwanza on 29 April 2016 to meet one of his clients. He arrived at Julius Nyerere International Airport at around 1800hrs. He checked in as usual but he was not given a boarding pass instead he was informed that the aircraft had some technical problems. After sometimes he was informed that the aircraft is overbooked thus he cannot travel. Fast Jet offered him accommodation so that he can travel the following day. He requested one of FastJet officers to write about the situation on his ticket and stamp on statement which he did. It was already late around 0100hrs so he decided to stay at the airport until the morning of 30 April 2016 but he could not meet his client. Later he contacted his lawyer about what happened during his trip by FastJet. His lawyer wrote a demand notice to FastJet for the loss of business he suffered due to cancellation of his trip on 29 April 2016. He got a reply from FastJet lawyer that on that date one of the aircraft had some technical problems thus they were forced to combine two flights thus caused overbooking. After two days FastJet gave him an offer of two tickets to settle his demand notice. He did not accept the offer, thereafter forwarded the matter to TCAA through TCAA CCC.

On its side, the respondent FASTJET was represented by Advocate Ivone Sianga from Gabriel & Co Attorneys and Eng. August Kowero FastJet's Head of Government and Regulatory. Ms. Ivone Sianga in reply on behalf of FastJet stated that; FastJet is aware of the existence of Martin Kimbavala's complaint. FastJet offered the complainant two tickets which he accepted but two days after acceptance came with the demand of 35 Million. The overbooking was beyond FastJet control as there were some technical problems which occurred thus caused overbooking. According to FastJet policy the only remedies was to refund or give the next available flight. As a low cost carrier you cannot oversee the demand of every passenger. In this case he was allocated in the next available flight on 30 April 2016.

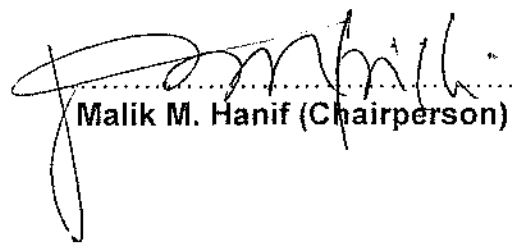
In reply Eng. Martin Kimbavala stated further that, he has never accepted any tickets from FastJet. The FastJet lawyer was requested by the committee to provide proof of tickets which were accepted by complainant.

After hearing both parties, members of the committee wanted to know the reason for cancellation, whether overbooking or technical problem and whether it is a Fastjet policy to give two tickets as compensation. FastJet explained that on 28 April 2016 there were two flights going to Mwanza, one got a problem thus they had to combine them to rescue the situation. It is not FastJet policy to give two tickets; it only does that in order to resolve complaints.

The committee considered submission by both parties and evidence submitted in this complaint. Fastjet were required to submit more evidence regarding tickets which were offered to the Complainant, of which they did not submit. It was further noted that, FastJet had no preparation for the complaint though they were required to do so by two letters by the Authority. Fastjet has shown lack of seriousness to the Authority as could not completely defend itself. The committee therefore deliberated and resolved that the complainant should be granted USD 4000.

Delivered at Dar es Salaam this 22nd day of February 2017.

Signed on this 26.....day of MAY.....2017.


Malik M. Hanif (Chairperson)