



**THE SMALL CLAIMS TRIBUNAL
EUROPEAN SMALL CLAIMS PROCEDURE**

**Adjudicator
ADV. JULIANA SCERRI FERRANTE**

Today 27th June 2023

Claim number 5/2022SFJ

Antoine Gouder

vs.

Ryanair DAC

The Tribunal:

Preliminary matters

Saw the Notice of Claim filed by the claimant on 21st October 2022 pursuant to Regulation 861/2007 establishing a European Small Claims Procedure in which the claimant stated that he was claiming the sum of **two thousand and sixty-three Euros (€2,063.00)**, with costs of these proceedings but without interest.

Saw the defendant's reply filed on 9th December 2022 in which it raised several pleas.

Heard the claimant testify under oath during the sitting held on 7th February 2023.

Read all the documentation presented.

Considerations of the Tribunal

Claimant contends that he was due to fly to Cagliari with his family on a Ryanair flight on 13th July 2022. Some moments before the flight was due to depart, he was informed by another passenger that the return Ryanair flight (from Cagliari to Malta) scheduled for 17th July 2022 had been cancelled. This meant that he

only had a few moments to decide whether to board the flight to Cagliari or whether to explore other options from Malta.

At one point, claimant was also notified via the Ryanair mobile app. He started phoning Ryanair customer care but to no avail. He informed personnel at the gate that he was not comfortable going to Cagliari knowing that the return flight was cancelled and essentially not knowing what to do to return to Malta. Gate personnel advised him to speak to personnel at the Aviaserve booth. Aviaserve personnel undertook to inquire with Ryanair.

Mr Gouder and his family opted to cancel the Cagliari holiday entirely. This meant that the Cagliari hotel booking was also lost (to the amount of €888.00). The following day, the Gouder family travelled to Bratislava instead.

In cross-examination, Mr Gouder acknowledged that Ryanair promptly refunded him the amounts paid for both flights (Malta to Cagliari and Cagliari to Malta) but stated that he was expecting to be compensated for the loss of the hotel booking in Cagliari. Dr Graziella Bezzina (appearing for the defendant) questioned why the receipt issued by the Sardinian hotel was dated 10th August 2022 when the holiday had been due to take place in mid-July 2022. Mr Gouder explained that he had booked the Cagliari hotel through Booking.com, and had not dealt directly with the hotel. When he realised he would need to initiate these proceedings, he asked the hotel to issue a receipt.

Mr Gouder clarified that as he was a frequent traveller, he benefited from some discounts and although the Cagliari hotel received €888.00, he was only charged €830.00, and was limiting his claim to that amount.

Mr Gouder further stated under oath that he never asked Ryanair for a refund. He added that he knew from a press cutting that Ryanair had known of the circumstances that would lead to the cancellation of the flight from Cagliari to Malta and should not have left it until the last minute to cancel the flight. He explained that had Ryanair cancelled the flight earlier, he would have been able to cancel the hotel booking and would consequently not have lost €830.00.

Mr Gouder also explained, under oath, that his household was in a panic as the holiday he had promised his children had been cancelled, and therefore he managed to find a flight to Bratislava and a hotel in that city to make up for the promised holiday.

Eventually, Mr Gouder managed to get through to Ryanair on the website chat facility, but the representative with whom he spoke told him that as Ryanair had already refunded the money paid for the flights to and from Cagliari, it was not possible to use the same monies paid to fly elsewhere instead.

The Tribunal has understood, therefore, that although the claimant, in the Notice of Claim, indicated the amount of €2,063, he has reduced his claim to €830 in view of that which he stated in his testimony.

On its part, defendant submitted before the Tribunal a copy of Regulation 261/2004 and referred specifically to Article 5(3) of the said Regulation, which articles states that an operating air carrier “...*shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.*”

Clearly, defendant airline is contending that are no measures it could have possibly taken to avoid cancellation of the flight due to industrial action on the part of Italian air traffic controllers. Defendant airline is correct to state this, but defendant airline has not managed to prove that it informed its actual and potential customers of the cancellation or likely cancellation of the Cagliari to Malta flight on 17th July 2022 at the earliest possible opportunity. As Ryanair is an established and experienced airline, it is expected to know what kinds of disruptions in airports and in air traffic control can lead to delay or cancellation of a flight. Therefore, whereas this Tribunal agrees that there are no measures Ryanair could have taken to prevent industrial action on the part of Italian air traffic controllers, it could have taken measures to prevent actual and potential damages and inconvenience to actual and potential customers.

Decision

Therefore, after having read the content of the case file and all the documentation submitted (in this case, only by the claimant), the Tribunal:

1. Upholds claimant's claim and orders defendant to pay the claimant the sum of eight hundred and thirty Euros (€830.00);
2. Refrains from ordering payment of interest as none was claimed;
3. Orders defendant to pay the costs of this case according to the taxed bill of costs issued by the Registry.

Adv. Juliana Scerri Ferrante
B.A., L.P., Mag. Jur. (Int. Law), LL.D.
Adjudicator