



Civil Resolution Tribunal

Date Issued: March 28, 2024

File: SC-2023-005702

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lee v. Air New Zealand Limited*, 2024 BCCRT 321

B E T W E E N :

DOUGLAS TAYLOR LEE

APPLICANT

A N D :

AIR NEW ZEALAND LIMITED

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. This dispute is about a diverted flight. Douglas Taylor Lee says that his daughter, AL, was flying from Auckland to Vancouver on a flight operated by Air New Zealand Limited (ANZ) on December 20, 2022. The flight was diverted to San Francisco because of a storm in Vancouver. Mr. Lee says that ANZ was not able to transport AL to Vancouver until December 25, 2022, so she made alternate transportation

arrangements to get home earlier. Mr. Lee claims \$754.50 in expenses for these alternate arrangements. AL is not a party to this dispute.

2. ANZ does not dispute that AL's flight was diverted, or that it told AL that the next available flight was on December 25. However, ANZ says that Mr. Lee does not have standing to bring a claim for AL's expenses. In the alternative, ANZ says that it is not responsible for AL's alternate transportation expenses under its contract of carriage or the applicable legislation.
3. Mr. Lee represents himself. ANZ is represented by a lawyer, Michael Gianacopoulos.
4. For the following reasons, I dismiss Mr. Lee's claims for lack of standing.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

ISSUES

8. The issues in this dispute are:

- a. Does Mr. Lee have standing to bring this dispute?
- b. If so, must ANZ pay Mr. Lee the claimed \$754.50 for travel expenses?

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mr. Lee must prove his claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision. Mr. Lee did not provide final reply submissions, despite having the opportunity to do so.

Does Mr. Lee have standing to bring this dispute?

10. As noted, ANZ disputes Mr. Lee's standing to bring a claim for AL's travel expenses. ANZ did not raise this argument in its Dispute Response filed at the outset of this dispute, but did raise it in its response submissions. Mr. Lee had an opportunity to provide final reply submissions, but as noted, chose not to do so. I find it is not procedurally unfair to consider ANZ's arguments about standing, because Mr. Lee had an opportunity to respond to them.
11. "Standing" refers to a person's legal right to bring a claim. In order to have standing, a person must have a legally recognized interest in the claims they are making.¹ Here, I find Mr. Lee has not demonstrated that he has a legally recognized interest in reimbursement for AL's travel expenses. Mr. Lee was not a passenger on the diverted flight. AL was undisputedly an adult at the time of the flight. Mr. Lee describes the claimed expenses as AL's out-of-pocket expenses to get herself home, so I find AL incurred these expenses on her own behalf. There is no indication that Mr. Lee personally incurred any expenses.
12. I find Mr. Lee does not have a legal interest in AL's travel expenses. So, I dismiss Mr. Lee's claims against ANZ, as I find he lacks standing to bring them. Nothing in this

¹ *Extra Gift Exchange Inc. v. Ernest & Twins Ventures (PP) Ltd.*, 2007 BCSC 426 at paragraph 51.

decision prevents AL from filing her own claim against ANZ, subject to any applicable limitation period.

13. Under CRTA section 49 and the CRT Rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Mr. Lee was unsuccessful, I dismiss his claim for reimbursement of CRT fees. Neither party claimed dispute-related expenses.

ORDER

14. I dismiss Mr. Lee's claims and this dispute.

Alison Wake, Tribunal Member