

Case law

Case Details

National ID: 0854270

Member State: Portugal

Common Name: B. and C. v. D. Lda and E. S.A.

Decision type: Other

Decision date: 09/02/2009

Court: Tribunal da Relação (Appellate court, do Porto)

Subject:

Plaintiff:

Defendant:

Keywords:

Directive Articles

Package Travel Directive, [Article 2, 1.](#)

Headnote

In situations where travel agencies act as intermediary in sales or reservations of separate services requested by the clients, the agencies are liable only for the proper issuance of tickets, so that the clients should obtain the ticket from the transporter themselves.

Facts

B and C had a contract of flight transport with the company E... SA (airline) with intermediation of D (travel agency). The contract was not fulfilled and the claimants could not fly due to a strike of the "help/aid personal". As a result the trip was rescheduled for another date, and again the authors did not board because they did not the title of transport (tickets), which was due to the claimants themselves. After the reservation was made, the claimants no longer contacted the travel agency or the airline to confirm the travel and its conditions. B and C claimed for compensation against D and E due to breach of contract.

Legal issue

By considering the liability of the travel agency the Court held that in cases like this the travel agencies act as intermediary by selling or making reservations for separate services required by the client, being responsible only for the correct issuance of the titles of accommodation and transport (DL 209/97, art. 17, para 4 and art. 39 para 6). The travel agency merely acted as an intermediary in the reservation of seats (within the limit of checking the availability of seats for the means of transport requested by the clients and of providing the booking of seats; the clients themselves had to obtain the ticket directly from the transporter). Indeed, it was only proved that the claimants have not boarded because of a strike and that they requested the travel agency to rebook the travel; the reservation for a new date was done and was made available next to the transporter. If this was the agreement, nothing else can be requested from the travel agency but just to make the requested reservation, so that the agency provided the service contracted.

Decision

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Result