



TANZANIA CIVIL AVIATION AUTHORITY

DECISION OF THE COMMITTEE OF THE AUTHORITY ON THE CONSUMER COMPLAINT

BETWEEN

SHADRACK BUSALI.....COMPLAINANT

AND

FASTJET RESPONDENT

DECISION NO. 3 OF 2017

On 17 August 2016, the Authority received a complaint from Shadrack Busali the complainant against Fast Jet the respondent.

The complainant had a return ticket for Mwanza to Dar es Salaam with booking reference FCTZMW flight ticket number 002301486379/01 and 002301486379/02 purchased for Tzs 290,000 /-. The flights were scheduled to depart from Mwanza on 16 May 2016 at 1720hrs and arrive at Dar es Salaam at 1855hrs. On return, the departure from Dar es Salaam was to be on 6 June 2016 at 0600hrs arriving in Mwanza at 0730hrs. The complainant had another return ticket for Dar es Salaam Harare, ticket numbers 002301469952/01 and 002301469952/02 purchased for Tzs 322,800/-. The flight to Harare was to depart at Dar es Salaam on 16 May 2016 at 2155hrs and arrive at Harare at 0055hrs. On return, depart from Harare was on 7 June 2016 at 0125hrs and arrive at Dar es Salaam at 0445hrs. In addition to, the complainant had a bus ticket to travel from Harare to Johannesburg on 18 May 2016. The ticket cost was Rand 550.00. On the date of his trip, i.e 16 May 2016, the complainant checked in on time but later he, with other passengers, were informed that the flight was cancelled. Following the cancellation, they were booked in another flight which departed on the same day at 2215hrs expected to arrive at Dar es Salaam at 2350hrs. He was issued with another ticket and was forced to pay for his luggage extra Tzs. 110,000/-. He knew he would miss his flight connection to Harare thus asked for a way out at Fast Jet Mwanza. He was informed that he would be refunded in Dar es Salaam. But that was not the case when he arrived in Dar es Salaam. He thus missed his flight to Harare, he was forced to stay in Dar es Salaam for two more days and later bought a ticket to Harare from Kenya Airways for USD 404.70

As required by the procedures, The Civil Aviation (Procedure for Complaints Handling) Rules, the Complainant was informed to try to resolve the matter with the respondent within seven days. Fast Jet did not respond.

TCAA Consumer Complaint's Unit in its effort to solve this complaint met with Fastjet officers Eng. August Kowero, Christine Kauson and David Chacha who stated that the cancellation was due to technical reason. FastJet policy does not offer flight connections. The connections are done at the customer's risk. Although it is against the policy; the complainant was given an offer to travel to Fastjet destination for free within 7 days but he refused.

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 Shadrack Elias Busali introduced himself as a Loan Consultant and a Missionary from Mwanza explained that he was supposed to go to Capetown for spiritual training scheduled on 20 May – 4 June 2016. He planned his trips with three connections. i.e Mwanza- Dar by FastJet, Dar- Harare by FastJet, Harare – Johannesburg by bus, Johannesburg – Capetown by bus. He was to depart from Mwanza – Harare on 16 May 2016 at 1720hrs. Unfortunately the flight was cancelled. He was not informed of cancellation rather he got such information from other people at the airport. After getting such news he knew it was going to affect his connecting flight to Harare. He went to the FastJet offices at the airport and explained about what he heard and that the cancellation was going to affect his other flight to Harare. He was attended by one Vivian FastJet officer who called the manager to attend complainant issue. After a while, the manager came and informed the complainant that upon cancellation there are only two remedies; one ticket refund, second travelling with the next available flight. The complainant requested to be refunded his ticket to Harare. The Manager called for Country Operational Manager he got some instructions which were written on the system. He told him that when he reaches Dar es Salaam he should present himself to the FastJet office where he will be refunded. He managed to travel around 1000hrs thus arrived in Dar es Salaam at 1100hrs. He found the Fastjet office at the airport closed. He was advised to come in the morning. He was forced to sleep at Tansit Motel Ltd which cost him Tsh 50,000. In the morning he went back to FastJet offices he was informed that refund is done at Fastjet Vingunguti offices, he went there by taxi which costed him Tsh 20,000 return. At Vingunguti office he met Martha Fastjet officer but she said that she could not see anything on the system about refunding his ticket. She communicated their offices in London by email. She told the complainant that once the email is replied she will communicate to him so that he can be refunded. Complainant went back to Tansit Motel Ltd waiting for the email reply. He waited up to 1200hrs there was no reply. He decided to buy another ticket from Kenya Airways in order to meet his schedule. He got a ticket for USD 404.70. He went back to FastJet at around 1500hrs. He was informed that his refund could not be honored instead he was offered another flight which he

refused as it was contrary to his timetable. When he came back from his training he submitted a formal demand to FastJet, FastJet replied that connections are at the risk of the passenger. What they can offer is just free tickets.

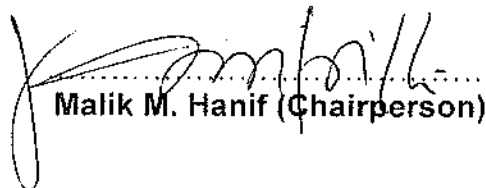
Ms. Ivone Sianga FastJet advocate from Gabriel & Co. Attorney's explained that it is true that the complainant was to travel by FastJet as he explained. It is also true that there was cancellation as he explained but he was given two options; refund or to take the next available flight. The refund procedure was complicated therefore could not be executed. Refund is only done when cancellation is related to Safety and Security issues. Terms and condition of FastJet exonerate it from liabilities arising from connections. All connections are done at passenger's risk. She further explained that at FastJet there is no one with the title of Country Operational Manager. However FastJet requested time to request more on this complaint. She explained further that refunds can be done at FastJet JNIA office if the ticket was bought there or through the agent. She insisted that FastJet as a low cost carrier should not be compared with other airlines policies. Sometimes travel agents do not take enough passengers information to ensure that communication is done properly in case of cancellation.

The committee after hearing both parties and going through information, analyzed the law relating to compensation and; decided that the complainant is entitled to full refund of the cost he incurred due to cancellation; as follows

- i. Refund of his FastJet ticket TZS 822,800**
- ii. Refund of Kenya Airways Ticket USD 404.70**
- iii. Taxi cost TZS 23,000**
- iv. Accommodation cost at Transit Motel Ltd. TZS 100,000**
- v. General damages equivalent to 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)