

**Licence
Appeal
Tribunal**

**Tribunal
d'appel en
matière de permis**



DATE: 2016-01-14
FILE: 9712/TIA
CASE NAME: 9712 v. Travel Industry Council of Ontario

An Appeal from a Decision of the Board of the Travel Industry Council of Ontario to Refuse a Claim for Compensation

Appellant

Appellant

-and-

Travel Industry Council of Ontario

Respondent

REASONS FOR DECISION AND ORDER

ADJUDICATOR: Mary Ann Spencer, Member

APPEARANCES:

For the Appellant: Self-represented

For the Respondent: Soussanna Karas, Counsel

Heard in Toronto: January 6, 2015

REASONS FOR DECISION AND ORDER

This is an appeal by the Appellant to the Licence Appeal Tribunal (the “Tribunal”) from a decision dated July 22, 2015 of the Board of the Travel Industry Council of Ontario (“TICO”) to refuse a claim for compensation from the Travel Compensation Fund (the “Fund”) pursuant to section 57 of O. Reg. 26/05 (the “Regulation”).

TICO denied the Appellant’s claim for reimbursement of \$1,500, the cost of a return air fare to the Philippines, on the basis that the claim was ineligible because payment was not made to a registered travel agent and because, without a proper receipt, the Board was unable to determine what, if any, travel services were purchased and whether the services were utilized prior to the failure of Smartchoice Travel and Tours.

For the reasons set out below, the Tribunal finds that the Appellant is entitled to reimbursement from the Fund.

FACTS AND EVIDENCE

The Appellant’s claim arises from the fraudulent activities of Maria Rowena Santiago Belen. Ms Belen was employed as an outside sales representative by Smartchoice Travel and Tours, a registered agency, from July 22, 2011 until her employment was terminated on March 19, 2014.

On February 15, 2015, Ms Belen was convicted under section 380 of the *Criminal Code of Canada* of defrauding the public in the amount of \$301,736 relating to the sale of airline tickets. In a memo to Ms Karas dated March 2, 2015 (Exhibit 6, Tab 9), Assistant Crown Attorney Craig Power wrote “To sum up the facts in a cursory fashion, she took the money for people’s bookings, and knowingly did not provide them with their tickets.”

Ms Belen was also charged by TICO under the *Travel Industry Act, 2002* and on May 5, 2015, pled guilty to operating as a travel retailer without being registered.

Appellant’s Evidence

The Appellant testified that he purchases tickets to travel to Manila every year. He was referred to Maria Rowena Santiago Belen and Smartchoice Travel and Tours (“Smartchoice”) by a friend of his wife. In 2013, he successfully purchased a ticket from Ms Belen, paying the cost of approximately \$1,400 by credit card.

All of the Appellant’s dealings with Ms Belen and Smartchoice were by telephone, e-mail or text. On March 11, 2014, the Appellant contacted Ms Belen by telephone to purchase a return air ticket for travel to Manila in July, 2014. Ms Belen advised him that there was a seat sale, but that only two seats remained at the sale price of \$1,500. The quoted price was approximately \$300 less than the price the Appellant had found on Expedia. The Appellant offered to pay by credit card but was advised he would have to

“move fast” to secure the seats and was directed to deposit the funds to a TD Bank account in the name of a person whom the Tribunal will refer to as D.P. The Appellant questioned this but was reassured when Ms Belen advised him that this individual was an owner/investor of Smartchoice Travel and Tours.

At 10:32 a.m. on March 11, 2014, by e-mail, Ms Belen forwarded a document from RoyalScenic.com to the Appellant. This document, entitled “Booking Receipt”, sets out Philippine Airlines flight information and price details which total \$1,937.32. At the bottom of the document is the following:

I, SMARTCHOICE TRAVEL TOURS, have read the Terms and Conditions and I understand that this fare is non-refundable. I agree to pay a total amount of CAD 1,937.23 (Booking on Hold) for this purchase. This will serve as my Electronic Signature.

Asked by Ms Karas if he did not notice the discrepancy between the \$1,937.32 and the \$1,500 he had been quoted by Ms Belen, the Appellant indicated that he did notice, but that it did not really register. The seat sale was on his mind and time was running out. He trusted Ms Belen, having previously successfully purchased tickets from her. When he finished work for the day, he went to the TD Bank and at 4:47 p.m. deposited the amount of \$1,500 into the account as directed. However, as the days went on, he realized that this was not a good transaction.

On approximately March 13, 2014, the Appellant called Philippine Airlines to confirm the tickets. The airline confirmed the booking but stated that payment had not been received. The next day, the Appellant called Ms Belen. She apologized to him and told him that she was ill and that she would complete the transaction the following day when she was able to go back to work. He called her again but his calls were not taken. A couple of days later, the Appellant received a call from Toronto police who told him he had been defrauded, that Ms Belen was in custody and that he should contact TICO to file a complaint. In April 2014, he re-booked the tickets to Manila through Expedia.

The Appellant testified that while he never physically attended at Smartchoice Travel and Tours, he did contact Gladys Calderon, the agency’s manager. She told him that the agency was also a victim and tried to persuade him to drop his complaint to TICO. He received an e-mail from her on May 5, 2014 in which she wrote that she had contacted TICO and advised them that he understood the situation. The Appellant stated that he had never agreed to withdraw his complaint.

The Appellant could not recall exactly when he first contacted TICO. However, he was sent a claim form from TICO on June 17, 2014 which he returned on June 26, 2014. He also completed a separate questionnaire TICO sent out to him, which was specific to Smartchoice Travel and Tours.

TICO’s Evidence

Douglas Fritz has been an investigator with TICO for 15 years. Mr. Fritz investigated the activities of both Ms Belen and Smartchoice Travel and Tours.

Mr. Fritz testified that TICO began to receive consumer complaints about Ms Belen in March 2014. Over 50 complaints were received. The complaints were from both individuals who paid for airline tickets which they did not receive and from those who gave her money as an investment.

Mr. Fritz explained that Ms Belen moved from the Philippines to Las Vegas, where she later became the subject of an outstanding warrant for her arrest for fraud over \$500,000. Ms Belen left Las Vegas for Toronto where she has a sister. In 2011, after successfully completing TICO's Travel Counsellor examination, she was employed as an outside sales representative ("OSR") by Smartchoice Travel and Tours. All transactions conducted by an OSR must be through the registered agency: funds must be payable to it and receipts are issued by it.

While Ms Belen was working as an OSR for Smartchoice Travel and Tours, she began to work with Maria Galorport o/a "Budget Travel and Tours", a registered agency operating from a location on the ground floor of the apartment building in which Ms Belen lived. Ms Belen portrayed herself as part owner of Budget. Ms Belen also began to run an investment scheme which Mr. Fritz described as essentially a Ponzi scheme. She advised individuals that she was able to purchase airline tickets at wholesale prices which she could sell for a profit. However, she needed capital to purchase the tickets. She promised her investors rates of return ranging from 5 to 20%. Mr. Fritz advised that individuals made investments ranging from \$5,000 to \$400,000.

Because Ms Belen was not a legal resident of Canada, she could not open bank accounts. Therefore, she asked some of her investors to open accounts in their name and used these accounts to deposit payments. When customers purchased airline tickets from her and paid in cash, Ms Belen would deposit the funds to these accounts. When customers paid by credit card, Ms Belen sometimes used them for other transactions without permission. Tickets were provided sometimes. However, Ms Belen would also provide customers with itineraries which were from either Smartchoice or from Budget and advise the customers that the itineraries were e-tickets.

On April 4, 2014, because of the number of complaints which had been received about Ms Belen, TICO financial inspector Timothy James conducted an inspection of Smartchoice (Exhibit 3, Tab 7). Mr. James noted the following:

Outside sales representatives are allowed to collect customer funds. Such funds are deposited to the partner's personal bank account (joint with the manager) and later transferred to the TIA trust account from where travel consolidators are paid. Also, funds received from the OSR Rowena Santiago are on account and do not relate to an actual booking as the agency's partners have granted her credit by allowing her time to refund the costs of the bookings being made.

He further noted that there was no indication of customers not receiving purchased services but this will change "once the account with Jade Tours is analysed and whether the registrant continues to honour the bookings made by their OSR". And, "with regard to customers stating that they were instructed by the OSR to pay funds into

a bank account not belonging to the agency, each case needs to be checked as the booking may not be confirmed or paid for with the appropriate customer credit card”.

Mr. James concluded that “The risk level is high mainly due to how the agency allowed one particular OSR to operate. The partners appear to be taking steps to discover the extent of any inappropriate activity of the travel counsellor with the main supplier”.

Following this inspection, Smartchoice issued an advisory entitled “Don’t Be the Next Victim” (Exhibit 3, Tab 7). In this undated document, the agency summarizes the activities of Ms Belen and advises customers of the differences between itineraries and e-tickets, and the details that should be on a receipt. The agency also characterized itself as a victim still owed money by Ms Belen.

Ms Belen was arrested on March 28, 2014 and subsequently convicted of fraud under the *Criminal Code*. Restitution totalling \$301,736 was ordered, which included \$1,500 to the Appellant. TICO subsequently reconciled the complaints and claims it had received to the restitution order. This reconciliation indicates that \$148,577.12 of TICO complaints were covered by the restitution order (Exhibit 3, Tab 9). TICO successfully prosecuted Ms Belen on the charge of operating as a travel agent without registration. Restitution of \$81,587.21 was ordered with respect to the TICO complaints and claims that were not covered by restitution order for the criminal offence (Exhibit 3, Tab 14).

Mr. Fritz testified that he believes that Smartchoice was complicit with Ms Belen. He noted the agency received money and issued itineraries to customers who did not receive services. TICO has laid charges against Gladys and Gerardo Calderon, the partners of Smartchoice, for making a false statement on a TICO renewal registration form completed in March 2014 (Exhibit 3, Tab 10). Mr. Fritz explained that the form lists Romeo Lascano as a partner, but that Mr. Lascano has not been living in Canada for three years. Further, Mr. Lascano indicated his signature on the renewal form was forged. Charges were also laid with respect to 11 consumers whose payments were not properly deposited to the agency’s trust account (Exhibit 3, Tab 13). Mr. Fritz explained that these 11 consumers paid through Ms Belen. The charges are scheduled to be heard in April 2016. Mr. Fritz explained that the funds of these 11 consumers were traceable at the agency. He noted that there were also untraceable funds in the agency accounts.

With respect to the Appellant’s claim, Mr. Fritz testified that he interviewed D.P., the holder of the account to which the Appellant’s \$1,500 payment was deposited. D.P. had known Ms Belen since 2011 and had purchased travel services from her. She told him she was part owner of Budget and asked him if he would like to invest. He subsequently invested \$70,000 and agreed to open a bank account for consumer payment deposits. When funds were deposited, Ms Belen would then tell him what to do with them. Mr. Fritz testified that the money in the account was withdrawn as cash or went to other investors. D.P. also provided Ms Belen with his credit card to purchase tickets and was told he would be paid \$50 per transaction. Mr. Fritz noted that at least 15 of the claims received by TICO were from customers who paid into D.P.’s account.

Smartchoice voluntarily terminated its registration on June 13, 2014 and subsequently declared bankruptcy. Mr. Fritz noted that the Appellant's name is not included in the list of liabilities in the bankruptcy documents (Exhibit 3, Tab 12).

Lori Furlan has been the claims co-ordinator with TICO since 1997. As part of her role, she checks claims for their completeness, including the provision of supporting documentation such as receipts and proof of payment.

Ms Furlan is also TICO's examination co-ordinator. Ms. Furlan explained that every travel counsellor must take the travel counsellor examination. However, the examination can be taken by anyone. Candidates register on line to complete the exam. Upon completion, a certificate number is provided. This is not a registration: counsellors must work for a registered agency.

Ms Furlan also explained that an outside sales representative is an employee of an agency and the agency is responsible for their actions. An OSR is required to issue an invoice from the agency. Funds generated by sales of an OSR must be deposited into the agency's accounts.

With respect to claims, recommendations are prepared by staff and presented to TICO's Board for decision. If there are issues with a claim, it is considered "special" and a chronology is presented to the Board. The Board does not interview claimants, but relies on the documentation presented to make its decision. Asked what documentation is required, Ms Furlan stated that a sales receipt issued by a registered agency is required. Such a receipt would indicate the services provided and the cost. And, payment must be to or through the agency; the money must end up in the trust account directly.

With respect to Smartchoice, TICO received 39 claims totalling \$124,394 (Exhibit 3, Tab 8). Three of these claims have been approved; 28 have been denied because payment was not made to the agency.

The Appellant's claim was presented to the Board as a special claim on May 6, 2015. The lengthy delay between the time the Appellant filed his claim and the presentation to the Board was due to the fact that TICO was conducting an investigation into the agency.

Ms Furlan explained that the Appellant's claim was denied because his payment of \$1,500 was made to a third party, and not to a registered travel agent. D.P. was not an owner of Smartchoice. Further, the Appellant had no receipt and only had an e-mailed itinerary. Ms Belen made a booking through Royal Scenic, a registered wholesaler, but the booking was not paid for. Ms Furlan contacted Royal Scenic and it was confirmed that the booking was made by Smartchoice on March 11, 2014 but cancelled automatically for non-payment on March 17, 2014.

Ms Furlan further explained that because the Appellant only received a copy of an itinerary and not a sales receipt, that TICO cannot determine that he is the proper claimant. Without a receipt, a claim to the fund cannot be successful.

Asked how she reconciled TICO's consumer protection mandate, Ms Furlan noted that TICO has a mandate both to protect consumers and to safeguard registrants' money. She stated that it is very clear that payments must be made to a registered travel agency for claims to be eligible for reimbursement from the fund.

THE LAW

The entitlement to claims on the compensation fund is set out in section 57 of O. Reg 26/05 made under the *Travel Industry Act, 2002*:

57. (1) A customer is entitled to be reimbursed for travel services paid for but not provided if,
- (a) the customer paid for the travel services and the payment or any part of it was made to or through a registered travel agent;
 - (b) the customer has made a demand for payment from,
 - (i) the registered travel agent and the appropriate registered wholesaler,
 - (ii) any other person who has received the customer's money, and
 - (iii) any other person who may be legally obliged to reimburse or compensate the customer, including a person obliged under a contract for insurance; and
 - (c) the customer has not been reimbursed by,
 - (i) those of the registered travel agent and the appropriate registered wholesaler, who under section 25 of the Act are liable to make the reimbursement, because they,
 - (A) are unable to pay by reason of bankruptcy or insolvency,
 - (B) have ceased carrying on business and are unwilling to pay, or
 - (C) have ceased carrying on business and cannot be located,
 - (ii) any other person who has received the customer's money, or
 - (iii) any other person who may be legally obliged to reimburse or compensate the customer, including a person obliged under a contract for insurance.
- (2) A reimbursement under subsection (1) is limited to the amount paid to or through any registrant for the travel services that were not provided.
- (3) Despite subsection (1), a customer is not entitled to be reimbursed for:
1. Travel services that were not provided because an end supplier, other than a cruise line or airline, became bankrupt or insolvent or ceased to carry on business.
 2. A payment to or through a registrant for any travel services that were provided or for which alternate travel services were provided or made available.
 3. A payment for travel services that were available, but were not received because of an act or a failure to act on the part of the customer or of another person for whom the travel services were purchased.
 4. Counselling fees paid to a travel agent.
 5. Travel services that were to be received as a prize, award or goodwill gesture.

6. Travel services that the customer obtained with a voucher, certificate, coupon or similar document that the customer did not pay for.
7. Travel services that the customer did not pay for with cash or by a cheque, credit card or other similar payment method.

Section 61 of the Regulation sets out the requirement to submit documentation to the Board:

61. (1) The claimant shall provide such documents and other information to the board of directors as the board requires to prove the claim.
- (2) The board of directors may request that the claimant provide additional documents or other information.

ISSUE

The issue to be addressed is whether or not the Appellant is entitled to receive compensation from the Travel Compensation Fund and if so, in what amount.

ANALYSIS

The Appellant submitted that TICO's policies were lax and it had failed to safeguard consumers. He expressed concern that anyone can receive certification as a travel counsellor and questioned how Ms Belen, illegally in Canada, was able to be employed by Smartchoice. He submitted that she represented herself as working for Smartchoice and that he deposited what he described as "hard earned money" to an account which he was told was that of an owner of Smartchoice.

Ms Karas submitted that the Appellant's documents show that he deposited his funds to the account of an individual who is not an owner and not related to Smartchoice. The Appellant did not check with either TICO or Smartchoice to confirm the individual's status. The Appellant should also have questioned the difference between the amount he paid and the amount that was on the "Booking Receipt" he received from Ms Belen. The Compensation Fund is a "last resort". Funds for travel services must be paid to, or through, a registered agency, the latter meaning by credit card. The fact that the Appellant was told he was paying to Smartchoice does not change the fact that the funds were not placed in its account.

The basic facts of this case are not in dispute. On March 11, 2014, the Appellant called Ms Belen to purchase a return flight to the Philippines. He was quoted a price of \$1,500 and he received an itinerary setting out the flight details. On the same day, he deposited \$1,500 to the account of D.P. as directed by Ms Belen, as payment for the tickets.

The *Travel Industry Act, 2002* and its regulations are consumer protection legislation. On its website, TICO describes its mission:

The Travel Industry Council of Ontario's mission is to promote a fair and informed marketplace where consumers can be confident in their travel purchases.

The Compensation Fund is described as follows:

Subject to the Regulation, the Fund provides reimbursement of monies paid to an Ontario registered travel agent for travel services that are not provided due to the bankruptcy or insolvency of an Ontario registrant or an end supplier airline or cruise line, where a reimbursement has not otherwise been provided. As long as the consumer has dealt through a registered Ontario travel retailer, a claim may be filed against the Compensation Fund for the non-provision of travel services.

In summary, section 57(1) of O. Reg 26/05 states, subject to the exceptions set out in subsection (3), that a customer is entitled to be reimbursed for travel services paid for, but not provided, if the customer made payment for the services to a registered travel agent, a demand for payment has been made and the customer has not been reimbursed.

The July 22, 2015 decision letter sent by TICO to the Appellant provides the following reasons for the Board's denial of his claim:

Your payment was made to D.P., who is not a registered travel agent. Therefore your claim is not eligible for reimbursement from the Ontario Travel Industry Compensation Fund. In addition, without a proper receipt issued by Smartchoice Travel & Tours, the Board was unable to determine what if any travel services were purchased, and whether the services were utilized prior to the failure of Smartchoice Travel.

As consumer protection legislation, the provisions of the Act and its regulations, particularly as they apply to the Compensation Fund, should be interpreted in a broad and liberal manner. Ms Karas submitted that section 57(1)(a) requires payment to be made to a registered travel agent and that the funds must be traceable. Ms Furlan was more specific and testified that the funds must end up in the registrant's trust account directly, for compensation to be paid.

The Travel Industry Compensation Fund is funded by TICO registrants. After reviewing section 57(1)(a) in the context of the legislation and the regulation, the Tribunal concludes its intent is to limit the Fund's liability to cases where consumers have dealt with those registrants, and that the wording "to or through a registered travel agent" is meant to preclude the Fund from paying in cases where consumers have dealt with those who are not registered under the Act. The regulation does not specify that funds must have been deposited in the registrants' accounts. That requirement, while not unreasonable, appears to be a policy or guideline of TICO's designed to assist it in the administration of the Fund. The Tribunal notes that if payments made must be traceable in an agency's account, then compensation from the Fund would be precluded in cases even where a registrant is paid directly, but misappropriates the funds. This would be an exclusion that, in the Tribunal's view, is contradictory to the Fund's consumer protection purpose. Nor is fraud one of the exclusions in section 57(3) of the regulation.

In this case, the Appellant telephoned Ms Belen on March 11, 2014 to purchase a return air ticket to Manila. While the price quoted for the ticket was less than he had been able to source online himself, he believed her when she told him there was a seat sale, there were few seats left, and therefore there was urgency to making payment. The Appellant offered first to pay by credit card. He questioned Ms Belen when told to make a cash payment to the account of D.P. However, he was reassured when told D.P. was an owner/investor of Smartchoice.

Ms Karas asked the Appellant if he had called TICO to confirm that D.P. was an agency owner. The Appellant testified that he had no reason to doubt Ms Belen, having made a previous successful purchase from her. The Tribunal questions how useful such a call might have been given that Mr. Fritz testified that he believes the agency was complicit with Ms Belen and given that the agency has charges pending against it with respect to the provision of false information about its owners.

Ms Karas also noted that the Appellant should have been alerted by the fact that the amount on the "Booking Receipt" he was sent did not match the amount he had been quoted. The Appellant testified that this did not register with him and that he assumed the seat sale accounted for the discrepancy. However, the Appellant did become concerned two days after his purchase and called Philippine Airlines to check on the status of his booking. Advised that the flight had been booked but not paid for, he called Ms Belen who advised she was ill and would rectify the situation when she returned to the office.

The Tribunal acknowledges that consumers should conduct due diligence and must take some responsibility for their transactions. However, the Tribunal notes that Ms Belen was very successful in her fraudulent activities, and therefore she was presumably very convincing; the names of over 100 individuals are listed on the restitution order that followed her criminal conviction. And, when the Appellant contacted Ms Belen on March 11, 2014, she was employed as an outside sales representative by Smartchoice, a registered agency. Given the Appellant had previously successfully purchased tickets from Ms Belen in that capacity, the Tribunal does not find it unreasonable that the Appellant followed Ms Belen's instructions.

As the registered agency and Ms Belen's employer, Smartchoice was responsible for Ms Belen's activities. Ms Furlan testified to the responsibilities of an agency with respect to an OSR. The Tribunal refers to the TICO's published guidelines with respect to OSRs which summarizes the responsibilities of a registrant:

The Act, does not register individual travel counselors, therefore Outside Sales Representatives (OSR) can only sell travel if they work through a TICO Registrant. The Registrant is responsible for the actions of the OSR as it relates to the sale of travel. This means that the Registrant must have policies and processes in place to ensure that the OSR complies with all aspects of the Act. It is the Registrant's responsibility to supervise the OSR appropriately.

That Smartchoice failed to properly exercise its supervisory responsibility is not in question. Mr. James' April 4, 2014 inspection report specifically noted that the agency

was high risk because of Ms Belen's activities, including the extension of credit to her for bookings. Mr. Fritz testified that he believed Smartchoice was complicit with Ms Belen. TICO's charges against the agency's principals are pending both with respect to the provision of false information on its registration renewal form and with respect to instances where the agency received consumer funds and failed to deposit them to the agency's trust account. Mr. Fritz testified that these instances were cases where the funds could be traced; there were also funds which could not be traced.

The Appellant had no reason to disbelieve Ms Belen's direction, having previously successfully purchased airline tickets from her over the telephone. He paid \$1,500 for the ticket in the manner in which he was directed by an employee of the agency, to an account he was informed was that of a Smartchoice owner. While this account was later proven to be one that was in fact part of what Mr. Fritz described as Ms Belen's "Ponzi scheme", from the consumer's perspective \$1,500 was paid to the registered agency. **The Tribunal concludes that, notwithstanding the fact that these funds could not be traced in the agency's accounts, the Appellant did pay the funds to a registrant.**

Failure of the Appellant to request reimbursement was not cited in TICO's decision letter as a reason for its denial of his claim. However, the Tribunal notes that the Appellant testified that he did contact Gladys Calderon, one of the owners of Smartchoice. While he was unable to be specific about dates in his testimony, he provided an e-mail dated May 5, 2014 sent to him from Smartchoice Travel and Tours and signed "Gladys" in which Ms Calderon suggests the Appellant contact TICO to withdraw his complaint and states "already you understood our situation and what was santiago did to all of us" (Exhibit 4). The Appellant testified that he did not advise Ms Calderon that he was prepared to withdraw his complaint. The Tribunal accepts this e-mail as evidence that the Appellant did pursue the agency. And, while Mr. Fritz testified that the Appellant is not listed as a creditor in the bankruptcy documents, the Tribunal notes this is not a requirement of the regulation.

With respect to the Board's reasons relating to documentation, the documentary proof the Appellant submitted to TICO comprises a signed March 11, 2015 bank deposit slip and a copy of a Booking Receipt produced by registered wholesaler, Royal Scenic. That Booking Receipt clearly indicates the flight, which is for a passenger with the same last name as the Appellant's, was booked using the electronic signature of Smartchoice. The Appellant also submitted receipts for replacement flights which he purchased from Expedia.

Were the Appellant the only person to complain to TICO about his dealings with Ms Belen and Smartchoice, the Tribunal might agree that the documentation of the Appellant's claim would be insufficient. However, by the time the Appellant's claim was presented to the Board on May 6, 2015, TICO had received over 30 consumer complaints about Smartchoice and had conducted an investigation into Ms Belen and Smartchoice, which included an interview of the holder of the account into which the Appellant's funds were deposited. TICO was also aware that on February 15, 2015, Ms Belen had been convicted of fraud under the *Criminal Code*; the Assistant Crown

Attorney described her actions in his March 2, 2015 memo to Ms Karas as “she took the money for people’s bookings, and knowingly did not provide them with their tickets.” That memo attached a copy of the restitution order that included restitution to the Appellant in the amount of \$1,500.

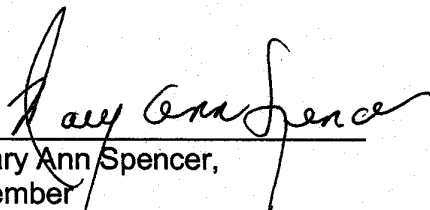
The Tribunal acknowledges that TICO usually requires full receipts generated by a registered agency setting out details of the services purchased and the amounts paid; however, to require that such documents must be produced on these facts is unreasonable.

The Tribunal concludes that sufficient evidence was before TICO, and is before the Tribunal, to support that the Appellant in fact paid \$1,500 to Smartchoice for the purchase of a return airline ticket to Manila which he did not receive.

ORDER

Pursuant to the authority vested in it under the provisions of the Act, the Tribunal directs TICO to pay \$1,500 to the Appellant for travel services paid for but not provided.

LICENCE APPEAL TRIBUNAL


Mary Ann Spencer,
Member

Released: January 14, 2016