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Fit-Tribunal tal-Konsumatur

CCT/10/18/S

Richard Harold Reader

vs

Orange Travel Group Limited

Today, 30th of August, 2018.

The Tribunal:

Took cognizance of the Notice of Claim filed by Richard Harold Reader on 31st January 2018 as well as the Reply filed by Orange Travel Group Ltd on 26th February 2018;

Examined all the filed documents, heard the parties' submissions as well as the evidence produced by them together with the final oral submissions made during the sitting held on the 14th of June, 2018;

Considered:

The Claimant was claiming the sum of eight hundred and forty-eight Euros and fifty-three cents (€848.53) and stated the following in support of his claim:

-He booked a three day and three night cruise on the "Norwegian Spirit" cruise ship through Orange Travel Group, which cruise was scheduled to take place between the 19th of October and the 22nd of October, 2017;

-Although he was informed that boarding of the vessel would take place in time for lunch, boarding was delayed for six hours as the vessel had not yet arrived. This meant that no lunch could be had. Following embarkation, he arrived in his cabin at 11:00 at night and was told that



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restaurants were closed. Although no normal dinner was served, the passengers were charged a service charge of €13.99 per person for the first day which the company refused to compensate for.

That in the relative Reply, Respondent stated the following:

- All passengers, including the Claimant, were informed of the delay as soon as Orange Travel Group was itself informed and therefore, not at the last minute;
- Passengers boarded the vessel at around 9:00 in the evening and could therefore have availed themselves of the twenty-four hour restaurant on board the vessel (the "Blue Lagoon" restaurant); and
- Information about this restaurant and all other restaurants and bars was available on the "Freestyle Daily" publication which was delivered to each cabin well before passengers were allowed to board.

According to the evidence tendered by Anna Khomko, the vessel's operator (Norwegian Cruise Lines) had informed her about the vessel's delay on 18th October 2017 at 2:19 in the afternoon (hence a day prior to departure). However, the specifics of the delay were not clear. In fact, the parent company advised that further information would be forthcoming. Further information was received on 19th October 2017 at around 9:11 in the morning. Paul Pizzuto (who was employed with SMS Mondial) confirmed that he was informed of the delay on the day of departure at 9:11 in the morning and added that at 9:21 in the morning, he sent an e-mail informing all his branches of the delay. As the Claimant resides in Gozo, Mr Pizzuto added that the officer in charge of the Gozo branch (Mr Charles Xuereb) informed the Claimant of the delay at around 9:31 in the morning. An affidavit was presented wherein Mr Xuereb declared on oath a version of events which confirms the evidence tendered by Mr Pizzuto, this being that at 9:21 in the morning on the day of departure, he had received an e-mail from the same Mr Pizzuto. He also declared that passengers were being advised

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to be at the harbour at 8:45 in the evening on 19th October 2017. Mr Xuereb also testified that he subsequently phoned all the clients to inform them about the delay.

The document marked "RR1" submitted by the Claimant is a letter signed by the ship's captain which indicated that originally, passengers were due to board the vessel on 19th October 2017 at 1:00 in the afternoon and the vessel was scheduled to leave Grand Harbour at 9:00 in the evening. The same letter indicated that according to the updated itinerary indicated in the same letter, boarding took place at 9:00 in the evening and the ship left Grand Harbour at midnight. Therefore, although boarding took place six hours after it was supposed to take place, the actual movement of the vessel, hence, the actual cruise, was only delayed by three hours.

Claimant testified that following boarding, he went to the main restaurant, where an employee informed him that the restaurant was closed. Upon going to the self-service restaurant elsewhere on the ship, it transpired that this restaurant only had scraps of food left and its staff were clearing everything. Claimant stated that no one had told them that there was a twenty-four hour restaurant on board. He added that in any case, this was a pool bar which only served burgers, which food he stated he would not eat.

In cross-examination, Claimant admitted that there was a brochure on board and listed the food establishments which were shown on the brochure to be open until late at night.

The Tribunal observes that although Anna Khomko could certainly give information as found in the relative brochures and material, it was nonetheless the Claimant who went through the experience first-hand. The Tribunal notes that although the relative brochures listed which cafés and restaurants were ones which remained open late into the night, there was no way either Claimant or Respondent could know that for example, the buffet restaurant had only scraps of food left and its staff was clearing away.

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The Tribunal is thus convinced that the Claimant's claim merits to be partially upheld once the first half a day was lost.

Decision

Therefore, for the reasons explained hereabove, after having seen Chapter 378 of the Laws of Malta and having taken account the circumstances of the case, the Tribunal partially accepts the Claimant's claim and establishes *ex aequo et bono* the sum of two hundred and fifty Euros (€250.00) which is to be paid by Orange Travel Group Limited to Richard Harold Reader.

The Tribunal orders that each party should bear its own costs of these proceedings.

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Richard Sladden Av.
Arbiter