Flight delay: Air carrier was awarded legal costs for unnecessary litigation

The District court of Copenhagen has just upheld the air carrier's claim that litigation was not necessary. The air carrier was awarded legal costs.

The case involved air passengers represented by a professional representative. The representative had sent a claim letter to an air carrier email address, but the mailing address was reserved for members of the air carrier's benefit program. In response to the inquiry, the air carrier had requested the representative to provide the membership number to process the inquiry. The court would therefore have to decide whether the claim could be considered to have arrived at the right recipient.

Claim letter sent to the wrong email address

The court emphasized that it was a professional representative who should therefore know that claims for compensation cannot be sent to any department that obviously does not deal with claims for flight delay or cancellation. In addition, the Court considered it questionable that a professional representative representing countless air carrier passengers in compensation matters could not submit claim letters to the air carrier's correct mail, or in lack of such email address, submitted the claim letter by post.

In those circumstances, the Court did not consider that the letter of claim could be regarded as having been received by correct recipient. Accordingly, the Court did not consider that litigation was necessary. Passengers were therefore required to pay legal costs to the air carrier.

Attempts to avoid dialogue will have consequences

The decision is of great importance to air carriers that have to pay legal fees to professional representatives, who more or less consciously try to avoid a dialogue with the air carrier in order to take the case to court and thus be awarded legal costs. This means that air carriers end up paying more than just compensation to the passengers. Subsequently, similar judgments were received in which the air carrier was awarded legal costs. It therefore indicates that the Court is aware of the problem and in this way rectifies the inappropriate use of the courts.

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