

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
APPELLATE DIVISION OF ST. CROIX

MARCELLIN LOCKHART,

Plaintiff/Appellee,

v.

COASTAL AIRLINE TRANSPORT,¹

Defendant/Appellant.

CASE NO.: SX-19-RV-005

Appeal from Magistrate Division
(SX-18-SM-115)

2019 VI Super 143

MEMORANDUM OPINION

¶ 1 Before the Appellate Division is Defendant/Appellant Coastal Air Transport's Notice of Petition for Review (properly, and herein, "Notice of Appeal"), filed May 10, 2019, from Judgment entered in the Magistrate Division April 16, 2019. No response to the Notice of Appeal was filed by Plaintiff/Appellee Marcellin Lockhart. The Court scheduled and heard oral arguments on October 8, 2019.

¶ 2 Rule 322(b)(1) of the Rules of the Superior Court requires that: "Appeal from a magistrate judge's decision may be obtained by filing a notice of appeal with the Clerk of the Superior Court within fourteen (14) days of entry of the judgment or order from which appeal is sought."²

¹ The correct name of Defendant/Appellant is Coastal Air Transport, as set out in the Notice of Appeal, various trial exhibits and confirmed at the October 8, 2019 hearing. The Complaint and Judgment in the Small Claims Division identify Defendant/Appellant as Coastal Airline Transport. That name is maintained in the caption.

² By Promulgation Order No. 2018-005, Superior Court Rule 322 was amended, effective December 1, 2018, extending the time for filing a notice of appeal from 10 days to 14 days. The Promulgation Order did not explicitly repeal Rule 322.1, including Rule 322.1(b)(2)(A) (a notice of appeal "must be filed... within ten (10) days after entry of the order sought to be reviewed"). Rule 322.1(b)(2)(B) further provided that the time for filing a notice of appeal "may not be extended. A petitioner who fails to seek review within the time provided by these rules waives the right to file an objection to the magistrate judge order." The Court finds that the provisions of Super. Ct. R. 322.1(b)(2) disallowing any extension to the time for filing and providing that failure to comply constitutes a waiver have been implicitly repealed. *See King v. Appleton*, 61 V.I. 339, 349 (V.I. 2014) (the Legislature's adoption of 4 V.I.C. §21 creating the Supreme Court as the supreme judicial authority of the Virgin Islands implicitly repealed 1 V.I.C. § 4, by which the restatements of the law approved by the American Law Institute, in the absence of other local authority, were deemed to represent the decisional law of the Virgin Islands).

¶ 3 The period of 14 days from the entry of the April 16, 2019 Judgment, excluding intermediate Saturdays, Sundays, and the legal holidays of Holy Thursday, Good Friday and Easter Monday, concluded May 9, 2019, such that Coastal Air's Notice of Appeal was untimely.³

¶ 4 However, "time limits set exclusively by court rules are mere claims-processing rules which do not affect a court's subject-matter jurisdiction even if they may result in dismissal if violated." *Bryan v. Gov't of the Virgin Islands*, 56 V.I. 451, 455-56 (V.I. 2012) (citations omitted). A claims processing rule is a procedural requirement that "is not jurisdictional ... [and] as with other judicially-created doctrines, is subject to waiver." *Id.* (citations omitted). "A claims processing rule ... can ... be forfeited if the party asserting the rule waits too long to raise the point." Here, Appellee Lockhart has not objected to the timeliness of the appeal.

¶ 5 Virgin Islands jurisprudence prefers the resolution of cases on their merits rather than by reason of procedural defects. *See Joseph v. Bureau of Corr.*, 54 V.I. 644, 650 (2011). For that reason, and also because Coastal Air raised at trial the potential preemption of Title 14 Part 250 Code of Federal Regulations over local law, an issue that was not addressed by the Judgment, the Court will exercise its discretion to resolve the issues presented on appeal, notwithstanding its untimeliness.

BACKGROUND

¶ 6 On July 20, 2018, Lockhart filed his Complaint in the Small Claims Division seeking damages against Coastal Air in the amount of \$965. The Magistrate Division held hearings and took evidence on October 30 and November 13, 2018. Plaintiff appeared and testified personally. Mike Foster appeared and testified on behalf of Coastal Air Transport.

¶ 7 Lockhart and his wife, Geraldine Lockhart, both testified that she purchased an airline ticket in cash in St. Croix from Coastal Air for Lockhart to return to St. Croix from Dominica on Saturday, August 27, 2017. Lockhart testified that he had a confirmed reservation for August 27, 2017, and that he arrived at the airport in Dominica in advance for the flight and picked up his ticket from the agent at the counter. The authorities in Dominica performed an inspection, he paid the departure tax, went through security and cleared customs with no issues. Thereafter, the Coastal

³ See Super. Ct. R. 9; V.I. R. Civ. P. 6(a)(1)(B).

Air gate agent informed Lockhart that he was not scheduled on the August 27, 2017 flight but had rather been scheduled to travel to St. Croix the prior day, August 26, 2017. Consequently, Lockhart was not permitted onto the flight, which was full, and traveled without him.

¶ 8 Lockhart testified at both hearings that he had received a physical ticket for the August 27, 2017 travel date which he gave to Coastal Air's agent at the airport in Dominica, keeping the ticket stub. Foster testified that Lockhart's reservation was for August 26, 2017. Neither the physical ticket nor ticket stub was produced by either party at trial.

¶ 9 The trial court found that Coastal Air sold Lockhart an airline ticket for travel from Dominica to St. Croix on August 27, 2017, that Lockhart had a confirmed reservation on Coastal Air's flight for that day, and that Coastal Air wrongfully denied Lockhart a seat on the flight, causing Lockhart to incur extra expenses.

¶ 10 The Magistrate Judge found Coastal Air liable to Lockhart and entered its April 15, 2019 Judgment accordingly in the total amount of \$576.50, for reimbursement of the airline ticket, roundtrip taxi fare, and one-night hotel stay, plus \$100.00 court costs.

JURISDICTION AND STANDARD OF REVIEW

¶ 11 A final judgment of the Magistrate Division that resolves completely the merits of a small claims case over which it has original jurisdiction pursuant to 4 V.I.C. § 123(a)(4) is immediately appealable to the Appellate Division in accordance with Super. Ct. R. 322(a). The original case file, including all exhibits and evidence taken by the Magistrate Judge in consideration of the case, including the written transcript of proceedings, constitutes the record on appeal. Super. Ct. R. 322(b)(6)(i). Determining that oral argument would be beneficial, this Court scheduled and heard oral arguments on October 8, 2019.

¶ 12 Factual determinations are reviewed for clear error, and legal findings, statements of law, and the application thereof, are afforded plenary review. Super. Ct. R. 322.3(b)(1) and (2).

DISCUSSION

¶ 13 The Court applies a deferential standard to the Magistrate Judge's findings of fact that will only be overturned for clear error. "Clear error is a very deferential standard; an appellate court should only reverse a factual determination as being clearly erroneous if it is 'completely devoid

of minimum evidentiary support or ... bears no rational relationship to the supportive evidentiary data.” *In re Estate of Small*, 57 V.I. 416, 430 (V.I. 2012) (citing *Rainey v. Hermon*, 55 V.I. 875, 880 (V.I. 2011) (quoting *Hodge v. McGowan*, 50 V.I. 296, 316 (V.I. 2008))).

¶ 14 The Magistrate Judge determined as a finding of fact that Geraldine Lockhart purchased an airline ticket for her husband Marcellin Lockhart, reserving for him a seat on Coastal Air’s August 27, 2017 flight from Dominica to St. Croix. The evidence in the record from the October 30 and November 13, 2018 hearings is conflicting regarding the date for which Lockhart had a ticket and reserved seat. Yet, because the record is not completely devoid of evidentiary support for the factual finding of the Magistrate Judge that Lockhart held a confirmed ticket to fly on August 27, 2017, that finding is not clearly erroneous and will not be disturbed on this appeal.

¶ 15 The evidence is undisputed that Lockhart was bumped in Dominica from Coastal Air’s August 27, 2017 flight to St. Croix. By its Judgment the Magistrate Division held that Coastal Air “wrongfully denied the Plaintiff a seat on the flight thereby causing the Plaintiff to incur extra expenses.” Judgment, at 3. Neither the Judgment nor the parties attempts to characterize the legal relationship between the parties from which denial of transport was deemed “wrongful.” Yet, clearly the Magistrate Judge found that Lockhart and Coastal Air had a contract for transport, and that Coastal Air breached the contract by bumping Lockhart from the flight.⁴

¶ 16 The Court applies plenary review concerning legal findings. Super. Ct. R. 322.3(b)(2); *Browne v. Gore*, 54 V.I. 195, 202-03 (V.I. Super. 2011) (*rev’d on other grounds*). After reviewing the evidence, the Magistrate Judge determined as a matter of law the existence of a contract that Coastal Air breached by wrongfully denying Lockhart a seat on the flight for which he had a ticket. On this review, the Court will not overturn that legal conclusion or award of damages incurred.

¶ 17 However, at the conclusion of the November 13, 2018 hearing, Coastal Air’s representative handed the trial court a printout from “transpotation.gov,” a website of the U.S. Department of Transportation, purportedly concerning “overbooking, and bumped flights, and canceled flights,”

⁴ “To succeed on a breach of contract claim, a plaintiff must show four elements: (1) an agreement, (2) a duty created by that agreement, (3) a breach of that duty, and (4) damages.” *Arlington Funding Services, Inc. v. Geigel*, 51 V.I. 118, 134-35 (V.I. 2009) (citing Restatement (Second) of Contracts, § 235 (stating that non-performance of a contractual duty constitutes a breach of contract)) (other citations omitted).

and the fact that “the rules do not apply to charter flights, or to scheduled flights operated with planes that hold fewer than 30 passengers.” Tr. Nov. 13, 2018, at 74. Following a brief discussion, the Magistrate Judge stated that he would “take the matter under advisement, and review the documentation, and issue my order later.” *Id.* at 76.⁵

¶ 18 Two days later, by letter filed November 15, 2018, Coastal Air presented “the additional information requested that I was unable to present in Court on November 13, 2018. This was due to an internet failure in the Christiansted area.” Submitted with the letter were multiple pages of Electronic Code of Federal Regulations, specifically Title 14 (Aeronautics and Space) Part 250 (Oversales), together with website pages explaining the regulations in lay terms. Included was the suggested applicable regulation: “A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:... (b) The flight for which the passenger holds confirmed reserved space is... on an aircraft with a designed passenger capacity of 60 or fewer seats.” 14 C.F.R. § 250.6.

¶ 19 The Judgment does not address the issue of the applicability of the provisions of the Code of Federal Regulations. “An oral decision or written judgment affirming the order of the magistrate judge need not set forth the reasons for the affirmance; however, the basis for the decision must be explained... if the judge is asked to rule on a matter raised but not addressed by the magistrate judge.” Super. Ct. R. 322(c)(5)(i). Here, because the issue of the potential limitation of the air carrier’s liability pursuant to 14 C.F.R. § 250.6 was raised but not addressed by the Magistrate Judge, it is proper for the Court to set forth the basis for its decision.

¶ 20 It is undisputed that the aircraft in question has “a designed passenger capacity of 60 or fewer seats,”⁶ such that the quoted language of Section 250.6 facially appears to bar compensation to a passenger involuntarily denied boarding. However, 14 C.F.R. § 250.2 defines the applicability of Title 14 Part 250, as follows:

⁵ The Record of Proceedings for November 13, 2018 indicates that: “Court kept copy of an [excerpt] from Department of Transportation that was presented by the Defendant. (Not an exhibit) matter to be taken under advisement.”

⁶ Coastal Air’s flight reservation list (Def. exh. 1) reflects a passenger capacity of 9, plus one standby passenger.

This part applies to every carrier, as defined in § 250.1, with respect to scheduled flight segments using an aircraft that has a designed passenger capacity of 30 or more passenger seats, operating in (1) interstate air transportation or (2) foreign air transportation with respect to nonstop flight segments originating at a point within the United States.

14 C.F.R. § 250.2

¶ 21 There is no evidence in the record to establish that Coastal Air is a “carrier” as defined in 14 C.F.R. § 250.1.⁷ Yet, whether Coastal Air is a carrier or not, Part 250 does not apply to its operations as applicability is only “with respect to... an aircraft that has a designed passenger capacity of 30 or more passenger seats...”⁸ Because the Coastal Air aircraft in issue has a designed passenger capacity of less than 30 seats, Title 14 Part 250 does not apply.

¶ 22 To the extent that the failure of the Magistrate Judge to consider the applicability of the Code of Federal Regulations as presented at the November 13, 2018 hearing constituted error, such error was harmless.

CONCLUSION

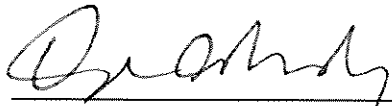
¶ 23 The Judgment included a factual determination that Lockhart held a validly purchased airline ticket for travel from Dominica to St. Croix on Coastal Air’s August 27, 2017 flight, and the legal conclusion that Coastal Air wrongfully denied Lockhart a seat on that flight. The factual finding is not clearly erroneous and the conclusion that Coastal Air breached its contractual obligation to Lockhart is supported in the record and by law. The failure of the trial court to address the limitation of Coastal Air’s liability pursuant to 14 C.F.R. Part 250, if error, was harmless in light of the inapplicability of the regulation in issue.

⁷ “Carrier means: (1) a direct air carrier, except a helicopter operator, holding a certificate issued by the Department of Transportation pursuant to 49 U.S.C. 41102 or that has been found fit to conduct commuter operations under 49 U.S.C. 41738, or an exemption from 49 U.S.C. 41102, authorizing the scheduled transportation of persons; or (2) a foreign air carrier holding a permit issued by the Department pursuant to 49 U.S.C. 41302, or an exemption from that provision, authorizing the scheduled foreign air transportation of persons.” 14 C.F.R. § 250.1

⁸ Further, the regulation does not apply to Coastal Air’s flight in issue as it was not “operating in (1) interstate air transportation or (2) foreign air transportation with respect to nonstop flight segments originating from a point within the United States.” 14 C.F.R. § 250.2

¶ 24 On the basis of the foregoing, the April 15, 2019 Judgment of the Magistrate Division will be affirmed by Order entered herewith.

DATED: October 18, 2019.


DOUGLAS A. BRADY, JUDGE

ATTEST:

ESTRELLA H. GEORGE
Clerk of the Court

By: 
Pr Court Clerk Supervisor
10/18/2019