

Lipton and another (Respondents) v BA Cityflyer Ltd (Appellant)

Case ID: UKSC 2021/0098

Case summary

Issues

Is a pilot unexpectedly falling ill while off-duty an "extraordinary circumstance which could not have been avoided even if all reasonable measures had been taken" within the meaning of EC Regulation 261/2004 (the "Regulation"), which provides for air carriers to pay compensation to passengers of cancelled flights?

Facts

In January 2018, Mr and Mrs Lipton's flight from Milan to London was cancelled because their pilot unexpectedly and suddenly fell ill at short notice while he was at home and off duty. They were placed on another flight which arrived 2 hours and 36 minutes after their original scheduled arrival time. Mr and Mrs Lipton claimed compensation under EC Regulation 261/2004 which provides for air carriers to pay compensation to passengers of cancelled flights, subject to certain conditions. The air carrier, BA Cityflyer Limited, defended the claim on the basis that the pilot's illness constituted an "extraordinary circumstance which could not have been avoided even if all reasonable measures had been taken", which meant it was not obliged to provide compensation. The air carrier succeeded in the Portsmouth County Court and on appeal at the Winchester County Court, but lost on appeal to the Court of Appeal, which gave judgment for Mr and Mrs Lipton. The air carrier now appeals to the Supreme Court.

Judgment appealed

[\[2021\] EWCA Civ 454](#)

Parties

Appellant(s)

BA Cityflyer Ltd

Respondent(s)

(1) Kenneth Lipton
(2) Linda Lipton

Intervener(s)

Civil Aviation Authority

Appeal

Justices

Lord Lloyd-Jones, Lord Sales, Lord Burrows, Lady Rose, Lady Simler

Hearing start date

6 February 2024

Hearing finish date

6 February 2024

Watch hearing

6 February 2024 [Morning session](#) [Afternoon session](#)