



July 19, 2012

File No. M 4120-3/11-06673

BY FACSIMILE: 514-422-5839

BY E-MAIL:

Air Canada
Law Branch
P.O. Box 7000, Airport Station
Dorval, Québec
H4Y 1J2

Gábor Lukács

Halifax, Nova Scotia

Attention: Julianna Fox
Counsel Regulatory and International

Dear Madam/Sir:

Re: Overselling practices and denied boarding compensation (domestic)

This refers to the complaint dated December 12, 2011 by Gábor Lukács respecting Air Canada's current practice of overselling its domestic flights, and certain portions of Rule 245 of Air Canada's domestic tariff governing compensation for denied boarding.

On December 16, 2011, the Canadian Transportation Agency (Agency) opened pleadings regarding Mr. Lukács' complaint. On January 16, 2012, Air Canada filed its answer, and on January 24, 2012, Mr. Lukács filed his reply. Pleadings were then closed.

In Decision No. LET-C-A-57-2012 dated April 2, 2012, the Agency stayed proceedings respecting the present complaint pending the issuance of final decisions regarding the issues relating to Air Canada's denied boarding policy raised in Mr. Lukács' complaints of June 8, 2009. On June 28, 2012, those final decisions were issued.

In Decision No. LET-C-A-100-2012 dated July 10, 2012, the Agency lifted the stay respecting Mr. Lukács' complaint dated December 12, 2011.

To enable the Agency to gain a fuller understanding of this matter, the following questions are posed to Air Canada:

Rule 245(E)(1)(B)

1. Rule 245(E)(1)(B) exempts Air Canada from tendering denied boarding compensation to passengers when, for operational and safety reasons, the passengers' aircraft has been substituted for one of lesser capacity. Provide specific examples of the (a) operational reasons and (b) safety reasons which would provide the basis for a decision by Air Canada to substitute aircraft?
2. For the most recent two-year period for which data are available, how many times was a smaller aircraft substituted for a larger aircraft for (a) operational reasons and (b) safety reasons?
3. For the most recent two-year period for which data are available, how many passengers were unable to be carried on the flight for which they held reservations because of the substitution of a smaller aircraft for a larger aircraft?

Rule 245(E)(2)

1. Rule 245(E)(2) provides that, subject to certain conditions, and at the passenger's option, Air Canada will tender liquidated damages in the amount of \$100, or a travel voucher in the amount of \$200 for travel within Canada, or to the United States or Mexico. What methodology did Air Canada apply to determine that level and form of compensation?
2. What was the rationale in determining that these amounts were reasonable?
3. What was the rationale in determining that compensation by travel voucher is reasonable?
4. In what year were these amounts established?
5. Were these amounts ever updated to reflect inflation or compensation levels provided by competitor airlines?
6. In its answer dated January 16, 2012, Air Canada submits that only 0.09 percent of passengers on Air Canada's domestic flights are subject to being denied boarding, including passengers who volunteer. For the most recent two-year period for which data are available, how many passengers were denied boarding (a) voluntarily and (b) involuntarily?
7. What was the total amount of denied boarding compensation tendered by Air Canada for that two-year period for each of (a) voluntary and (b) involuntarily denied boarding?

Air Canada is provided until August 8, 2012 to submit its response to these questions with a copy to Mr. Lukács at the same time. Mr. Lukács shall then have until August 20, 2012 to file any comments with the Agency with a copy to Air Canada.

Should you have any questions regarding the foregoing, you may contact Mike Redmond by telephone at 819-997-1219, by facsimile at 819-953-7910, or by e-mail at mike.redmond@otc-cta.gc.ca.

Sincerely,



Cathy Murphy
Secretary

BY THE AGENCY:

J. MARK MACKEIGAN
Member

Geoffrey C. Hare
Member