



August 13, 2015

File No. M4120-3/15-03657

BY E-MAIL: lukacs@AirPassengerRights.ca

BY E-MAIL: greg.sheahan@flyporter.com

Gábor Lukács

Porter Airlines Inc.

Attention: Greg Sheahan, General Counsel

Dear Sirs:

Re: Application by Gábor Lukács against Porter Airlines, Inc.

The attached application is accepted as complete.

On August 10, 2015 the applicant chose to proceed with the formal adjudication process.

The parties can opt for facilitation or mediation at any point during the adjudication process and while facilitation or mediation is taking place, the formal adjudication process will be stayed.

The [*Canadian Transportation Agency Rules \(Dispute Proceedings and Certain Rules Applicable to All Proceedings\) \(SOR/2014-104\) \(Dispute Adjudication Rules\)*](#) set out the process to be followed during the formal adjudication process.

Parties must be aware of the time limits for making filings or responding to filings in a dispute proceeding as the time limits can be as short as one business day to respond. In addition, some time limits are automatic so parties need to be aware of them to ensure that they are met and that a response is accepted. To assist parties, the Agency has developed a [chart that sets out the applicable time limits](#) for filing responses to requests and other pleadings. The Agency has also produced [forms](#) which are intended to guide parties through the various filings under the Dispute Adjudication Rules and which will assist those participating in the proceedings. These forms incorporate specific information requirements to improve the completeness of filings with the Agency, promote efficiency and expedite the process.

The Agency strives to deal with its cases within 85 business days. However, the Agency may take more than 85 business days to issue a decision due to the complexity and/or the particular circumstances of a case.

Pleadings process

The parties' pleadings must be submitted to the Agency Secretary at the co-ordinates provided below.

Answer

Pursuant to sections 11 and 19 of the Dispute Adjudication Rules, Porter Airlines Inc. (respondent) has until 5:00 p.m. Gatineau local time on September 3, 2015 to submit its answer to the application to the Agency and provide a copy to the applicant. The respondent's answer must include the information referred to in [Schedule 6](#) of the Dispute Adjudication Rules. It is important, for the efficiency of case processing, that answers be complete when they are filed with the Agency. The answer should address the issues and arguments raised by the applicant and positions should be substantiated. If the respondent does not file an answer, the Agency will make its decision based on the information provided by the applicant.

Furthermore, should the respondent wish to dispute the facts alleged by the applicant, it should include with its answer:

- a copy of any documents which would support the respondent's statement of the facts, including reports prepared in relation to the incident, and signed statements from the individual employees and/or contracted personnel who have direct knowledge of the incident and/or who had direct contact with the person(s) involved.

Reply

Pursuant to sections 11 and 20 of the Dispute Adjudication Rules, the applicant will have until 5:00 p.m. Gatineau local time on the fifth business day after the date of receipt of the answer to file a reply with the Agency and provide a copy to the respondent. The applicant's reply must include the information referred to in [Schedule 7](#) of the Dispute Adjudication Rules. A reply must not raise issues or arguments that are not addressed in the answer or introduce new evidence unless the applicant has made a request under section 34 of the Dispute Adjudication Rules and that request has been granted by the Agency.

Procedural requests

The Dispute Adjudication Rules also set out how to make a variety of procedural requests to the Agency on matters which commonly arise in dispute proceedings, including requests to keep information confidential. When making a request or filing a document, you must refer to the Schedules and relevant sections of the Dispute Adjudication Rules which specify information that must be included in a submission and set out filing or other requirements. Parties are also strongly encouraged to use forms available on the Agency's Web site for these requests.

Timely submissions

It is the parties' responsibility to ensure that their submissions are filed within the stated time frames. To ensure that Agency proceedings are efficient, the Agency will only grant extensions of time in exceptional circumstances.

Requests to extend a time limit should be made in enough time to permit the party to meet the original time limit as the request to extend may be denied by the Agency. As set out in

subsection 12(3) of the Dispute Adjudication Rules, documents filed after the end of an applicable filing time limit without a request for an extension will not be placed on the Agency's record and thus will not be considered by the Agency.

Reference should be made to the factors set out in the annotation of [section 30](#) of the Dispute Adjudication Rules which sets out some of the factors that the Agency may take into account.

All correspondence should refer to Case No. 15-03657.

Personal information and confidentiality

As a result of a recent Federal Court of Appeal Judgment, *Lukács v. CTA et al*, 215 FCA 140, the Agency is required to make all information submitted during a dispute adjudication available on the public record unless a request for confidentiality has been made to and accepted by the Agency.

Before submitting documents to the Agency, please **remove information that you do not want included on the public record**. This may include sensitive personal information unnecessary to your case, such as: social insurance numbers, passport details, credit card information, loyalty program reward numbers, and PIN or online access codes.

On occasion, personal information will have to be submitted to the Agency as it is relevant to the dispute proceeding. In those instances, a request for confidentiality pursuant to [section 31](#) of the Dispute Adjudication Rules can be filed with the Agency. This provision allows the Agency to keep confidential that information which is relevant to the dispute proceeding where it finds that there is specific direct harm likely to result from its disclosure to the public.

If you have already submitted personal information that you do not wish to be made public, you can file a request for confidentiality pursuant to [section 31](#) of the Dispute Adjudication Rules. Information which can be removed from the Agency's public record includes information which is not relevant to the dispute proceeding.

Any party may file a request for confidentiality in relation to their own personal information, the personal information of the other party to the proceedings or that of any other person. In addition, corporate respondents may have statutory obligations to protect the personal information of any individual.

Should you have any questions regarding this matter, I may be reached at the co-ordinates below.

Mike Redmond
Chief, Tariff Investigation
Air & Marine Investigation Division
Dispute Resolution Branch

Encl.

Documents must be sent to the Secretary of the Canadian Transportation Agency.

By e-mail:

secretariat@otc-cta.gc.ca

By fax:

819-953-5253

By courier or hand delivery

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec
Canada J8X 4B3

Due to the time limits involved and the widespread availability of technology, filings by ordinary mail will no longer be accepted by the Agency unless, in exceptional circumstances, a person has requested and received approval from the Agency to use ordinary mail. In those instances, extended time limits will be established for the exchange of pleadings and the processing of the case will take longer.