



May 2, 2013

File No. M 4120-3/13-02395

BY FACSIMILE: 416-982-3801

BY E-MAIL: lukacs@AirPassengerRights.ca

Sunwing Airlines Inc.
c/o Edwin T. Nobbs, Q.C.
Barrister and Solicitor
33 Yonge Street, Suite 201
Toronto, Ontario
M5E 1G4

Gábor Lukács
Halifax, Nova Scotia

Dear Sirs:

Re: Complaint concerning International Tariff Rules 3.4, 15, 18(e) and 18(f)

This refers to the attached complaint filed by Gábor Lukács (complainant) against Sunwing Airlines Inc. (respondent) dated April 24, 2013.

The complainant has declined mediation and has requested the Canadian Transportation Agency (Agency) to proceed with the formal adjudication process.

In his complaint, Mr. Lukács directs seven questions to Sunwing, pursuant to section 19 of the *Canadian Transportation Agency General Rules* (General Rules), and requests the Agency to direct Sunwing, pursuant to subsection 20(1) of the General Rules, to answer those questions at the same time Sunwing files its answer to his complaint.

Questions posed by Mr. Lukács

Sunwing has not yet provided its answer to the complaint filed by Mr. Lukács. The Agency only has submissions from the party filing the complaint but not from the party against whom the complaint is filed. A respondent has the right to make its own arguments in response to a complaint and must be able to exercise that right in the manner it sees appropriate.

The normal course of events, as set out in the General Rules, is for a complaint to be filed, pleadings to be opened, an answer to be filed and, if a complainant believes it to be necessary, a reply to be filed. Section 19 of the General Rules provides for the ability of a party to direct questions to the other party. It does not require that those questions be answered at this point in the proceedings. The Agency is of the opinion that the request for a direction to Sunwing to respond to the questions, pursuant to subsection 20(1) of the General Rules, is premature. Therefore, the Agency will not issue that direction.

Pleadings process

This process is a quasi-judicial one carried out pursuant to the *Canada Transportation Act* (CTA) and the General Rules, which can both be accessed on line at <http://www.cta.gc.ca>.

The parties can, however, opt for mediation at any point during the adjudication process and while mediation is taking place, the formal adjudication process will be on hold.

The Agency strives to deal with all of its cases within 120 days. However, the Agency may take more than 120 days to issue a decision due to the complexity or the particular circumstances of a case. If any party has concerns that the time it may take to render a decision could exceed 120 days, please advise the undersigned promptly.

The General Rules prescribe directions on how and when submissions are to be filed by the parties (pleadings process). The respondent has until May 23, 2013 to submit its answer to the Agency and provide a copy to the complainant and upon receipt of the answer, the complainant will then have until May 28, 2013 to file a reply with the Agency, with a copy to the respondent. **It is the parties' responsibility to ensure that their submissions are filed within the stated time frames.**

To ensure that Agency proceedings are effective, the Agency will only grant extensions of time in exceptional circumstances. The factors taken into consideration by the Agency for any extension request can be accessed on line at http://www.cta-otc.gc.ca/publications/information/2007/2007-09-13_e.html. Parties must provide clear and convincing evidence for any such request.

Investigations are generally completed in writing, although the Agency may decide that a public hearing is necessary. In addition, the Agency may seek further information and/or clarifications from the parties and from third parties (such as travel agents). The Agency may also ask parties to submit witness statements and/or affidavit evidence to complete the pleadings.

It is important to read the attached privacy information.

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

Sincerely,



Cathy Murphy
Secretary

BY THE AGENCY:

J. MARK MACKEIGAN

Member

Sam Barone

Member

Important privacy information

Open court principle

As a quasi-judicial tribunal operating like a court, the Canadian Transportation Agency is bound by the constitutionally protected open-court principle. This principle guarantees the public's right to know how justice is administered and to have access to decisions rendered by administrative tribunals.

Pursuant to the General Rules, all information filed with the Agency becomes part of the public record and may be made available for public viewing.

A copy of the application/complaint is provided to the respondent when the pleadings process begins and all information provided during the pleadings process will be used by the Agency to investigate the application/complaint.

In some instances, the Agency may process other applications/complaints together with this application/complaint, where similar issues have been raised. In such circumstances, information provided to the Agency on each of the applications/complaints may be distributed to parties to the other complaints.

An Agency decision will be issued that contains a summary of the application/complaint, a summary of other information provided during the pleadings and an analysis of the case, along with the Agency's determination and any corrective action deemed necessary by the Agency.

The decision will be posted on the Agency's Web site and will include the names of the applicant/complainant, the respondent and witnesses. The decision will also be distributed to a number of organizations and individuals that have subscribed to receive Agency decisions. In its use of names and personal information in decisions and orders, the Agency has adopted the protocol approved by the Canadian Judicial Council in March 2005 for the use of personal information in judgements. This protocol sets out guidelines to assist administrative tribunals when dealing with requests for the non-publication of names.

In an effort to establish a fair balance between public access to its decisions and the individual's right to privacy, the Agency has taken measures to prevent Internet searching of full-text versions of decisions posted on our Web site. This is done by applying instructions using the "web robots exclusion protocol" which is recognized by Internet search engines (e.g. Google and Yahoo).

Therefore, the only decision-related information on the Agency's Web site that will be available to Internet search engines are decision summaries and comments contained in the Agency's annual reports and news releases. The full-text version of decisions is posted on our Web site, but will not be accessible by Internet search engines. As a result, an Internet search of a person's name mentioned in a decision will not provide any information from the full-text version of decisions posted on the Agency's Web site.