



April 26, 2013

File No. M 4120-3/13-01696

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Sunwing Airlines  
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Attention: Stephen White, Legal Counsel

Dear Sirs:

Re: Complaint by the Nawrot family against Sunwing Airlines

This refers to the above-noted complaint filed with the Canadian Transportation Agency (Agency) on March 21, 2013.

Pleadings respecting this complaint were opened on March 27, 2013. Sunwing Airlines (Sunwing) was given until April 17, 2013 to provide its answer to the complaint and the Nawrot family was given 7 days, upon receipt of Sunwing's answer, to provide its reply. On April 5, 2013, Sunwing advised that, respecting the issue of compensation for alleged denied boarding (issue #1), it would file a response within the prescribed time, i.e. April 17, 2013. With respect to the matter of the reasonableness of Sunwing's denied boarding policy (issue #2), Sunwing requested an additional two weeks from April 17, 2013 to file a response.

On April 16, 2013, the Nawrot family filed a submission in which it objected to Sunwing's request for an extension of two weeks from April 17, 2013 but advised that an extension to April 22, 2013 would be acceptable.

On April 17, 2013, Sunwing filed a reply to the Nawrot family's submission of April 16, 2013. Among other things, Sunwing advised that an extension to April 22, 2013 is acceptable.

In Decision No. LET-C-A-66-2013 dated April 19, 2013, the Agency, among other matters, granted an extension to Sunwing until 1700 on April 22, 2013 to file its response respecting issue #2 of the complaint, and until 1700 on April 29, 2013 to the Nawrot family to file its reply. On April 22, 2013, Sunwing filed its response respecting issue #1 of the complaint.

On April 23, 2013, the Nawrot family filed a motion pursuant to section 32 of the *Canadian Transportation Agency General Rules*, SOR/2005-35 (General Rules) requesting the following:

- 1) Directions from the Agency respecting the following statement of Sunwing in its response of April 17, 2013: “We can see that there are purchases on the credit card payment summary between the time of the purchase of a railway ticket and the hotel at Gatwick which have been redacted. These are relevant and should be revealed and disclosed as well as any supporting invoices/receipts.”;
- 2) The production by Sunwing of an unredacted version of some exhibits appended to Ms. Johanne Dhue’s affidavit, as well as a sworn affidavit by Mr. Vic Tydeman;
- 3) An extension of seven days from the receipt of the requested documents and/or the determination of its motion, whichever is later, to file a reply.

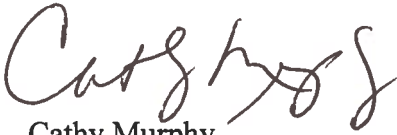
The Agency has considered the Nawrot family’s motion and makes the following determinations:

1. The Agency orders the Nawrot family to produce, by not later than 3 p.m. on April 29, 2013, an unredacted copy of the credit card payment summary at issue, along with supporting invoices/receipts. Alternatively, the Nawrot family must submit a claim for confidentiality and file the documents in accordance with section 23 of the General Rules;
2. (a) The Agency orders Sunwing to produce, by not later than 3 p.m. on April 29, 2013, an unredacted version of the redacted documents attached as exhibits to Ms. Dhue’s affidavit. Alternatively, Sunwing must submit a claim for confidentiality and file the documents in accordance with section 23 of the General Rules.  
  
(b) The Agency denies the request to have Sunwing produce a sworn affidavit by Mr. Tydeman. The Agency notes that Sunwing has filed a signed declaration by Mr. Tydeman, and is of the opinion that this is sufficient; and
3. The Agency stays the deadline for the Nawrot family to file its reply until all of the documents ordered to be produced by this Decision are so produced. The Agency will advise the parties at a later date of the revised deadline for the Nawrot family’s reply.

The Agency reminds the parties of the provisions in the General Rules governing claims for confidentiality which are in force to be applied. The Agency advises counsel for both parties to adhere to the directions given and to desist from overly litigious conduct in the interests of resolving this matter as expeditiously as possible.

Should you have any questions regarding the foregoing, you may contact Sylvie Giroux at telephone number 819-997-6410, facsimile number 819-953-7910 or by e-mail at [sylvie.giroux@otc-cta.gc.ca](mailto:sylvie.giroux@otc-cta.gc.ca).

Sincerely,



Cathy Murphy  
Secretary

**BY THE AGENCY:**

**RAYMON J KADUCK**

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Member

**Sam Barone**

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Member