

Gábor Lukács

Halifax, Nova Scotia

September 29, 2012

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, Ontario, K1A 0N9

Attention: Mr. Mike Redmond, Chief, Tariff Investigation

Dear Madam Secretary:

Re: Gábor Lukács v. Air Canada
Overselling practices and denied boarding compensation rules (domestic)
File No.: M 4120-3/11-06673
Answer to Air Canada's letter of September 28, 2012

Please accept the following response to Air Canada's letter of September 28, 2012, in which Air Canada attempts to belittle the significance of it having provided incorrect and/or misleading information concerning its Jetz service.

Relevance

The Applicant respectfully disagrees with Air Canada's position. In order to appreciate the significance of this issue, it is necessary to review its history:

1. On August 15, 2012, Air Canada made certain representations to the Agency in response to questions that the Agency directed to Air Canada in Decision No. LET-C-A-105-2012 on July 19, 2012. Air Canada's submissions included Annex C, which is an aircraft downgauges report.
2. On August 31, 2012, the Applicant raised the issue of "Reliability of Air Canada's evidence" as Issue I of his comments on Air Canada's answers. On pages 6 and 7, the Applicant directed certain questions (Q6 – Q 10) to Air Canada concerning Annex C.
3. On September 6, 2012, in Decision No. LET-C-A-137-2012, the Agency directed Air Canada to answer the Applicant's questions.

4. On September 17, 2012, Air Canada answered some of the Applicant's questions, while refusing to answer others. In order to explain the discrepancies in Annex C and to respond to Questions Q6 – Q10, Air Canada made certain representations about the fleet and capacity of Air Canada Jetz.
5. The Applicant has tendered a substantial amount of evidence to demonstrate that the representations made by Air Canada on September 17, 2012 concerning the fleet and capacity of Air Canada Jetz are incorrect and/or misleading:
 - (a) Air Canada's representations are inconsistent with the information provided on the website dedicated to Air Canada Jetz service (Exhibits "A" and "B" for the Applicant's submissions dated September 24, 2012).
 - (b) Air Canada's representations are inconsistent with the information provided by the agent at Air Canada's call centre dedicated to the Air Canada Jetz service (Exhibits "A" and "B" for the Applicant's submissions dated September 27, 2012).
 - (c) Air Canada's representations are inconsistent with the information provided on the website of Air Canada dedicated to the fleet of Air Canada, which also includes information about Air Canada Jetz (Exhibit "C" for the Applicant's submissions dated September 27, 2012).
 - (d) Even though this issue was brought to Air Canada's attention on September 24, 2012, no changes were made to Air Canada's websites to this date.
6. For greater clarity, a printout of the "Contact Us" page of Air Canada Jetz is attached here and marked as Exhibit "A". The phone number displayed on this page is precisely the phone number that the Applicant called to inquire about the fleet and capacity of Air Canada Jetz.

The relevance of the issue of the fleet and capacity of Air Canada Jetz to the proceeding lies in Issue I of the Applicant's August 31, 2012 submissions, entitled "Reliability of Air Canada's evidence". These discrepancies, unveiled by the Applicant, support the Applicant's submissions questioning the reliability of Air Canada's evidence in general, and the reliability of Annex C to Air Canada's August 31, 2012 submissions in particular.

The doubts about the reliability of Air Canada's evidence also underscore the importance of the Agency directing Air Canada to answer Questions Q1, Q2, Q5, and in particular, Q3, which may allow testing of the reliability of Air Canada's figures independently of Air Canada.

Request for an order pursuant to Rule 33

In spite of the overwhelming evidence tendered by the Applicant about discrepancies between Air Canada's representations, and the information on Air Canada's website and the information provided by Air Canada's agent, Air Canada insists that its representations were correct.

In its September 28, 2012 submissions, Air Canada went as far as stating that:

Should the Agency wish Air Canada to provide further information on the fleet used by Jetz, including the types of aircraft and their capacity, Air Canada requests that the Agency issue a direction to do so.

The Applicant has already asked the Agency to issue such a direction in his September 24, 2012 submissions on page 3, under issue I(a). However, in light of Air Canada's attempt to evade further discussion about its having provided incorrect and/or misleading information to the Agency, the Applicant submits that it would be more appropriate if the Agency directed Air Canada to provide an affidavit concerning the fleet of Jetz pursuant to Rule 33:

33. The Agency may, at any time, order any particular facts relating to a proceeding to be supported by an affidavit.

Therefore, the Applicant prays the Agency that the Agency order Air Canada, pursuant to Rule 33, to provide an affidavit concerning the fleet used by Air Canada Jetz, including the types of aircrafts and their capacity.

All of which is most respectfully submitted.

Gábor Lukács
Applicant

Cc: Ms. Julianna Fox, Counsel, Regulatory and International, Air Canada

EXHIBITS

- A. Printout from Air Canada's website showing the contact numbers for Air Canada Jetz (retrieved on September 29, 2012).

LIST OF AUTHORITIES

Legislation

1. *Canadian Transportation Agency General Rules, S.O.R./2005-35.*