



April, 20, 2016

Case No. 16-01055

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BY E-MAIL: lukacs@AirPassengerRights.ca

Carol McCall, Legal Counsel

Gábor Lukács

Dear Madam/Sir:

Re: Application by British Airways Plc carrying on business as British Airways (British Airways) for a variance of Decision No. 49-C-A-2016 dated February 26, 2016, pursuant to section 32 of the *Canada Transportation Act, S.C., 1996, c. 10, as amended (CTA)*.

The Canadian Transportation Agency (Agency) acknowledges receipt of British Airways' letter dated March 23, 2016, wherein British Airways requests to withdraw its application to vary Decision No. 49-C-A-2016 (request).

In response to British Airways' request, Gábor Lukács, by letter dated March 23, 2016, indicated that he did not oppose the request, but asked that the Agency address the issue of costs which was raised in his March 2, 2016 submission (submission). In the submission, Mr. Lukács sought an award of costs in the amount of \$25.00 for costs incurred related to the registration of Decision No. 49-C-A-2016 with the Federal Court, and \$250.00 in costs related to British Airways' application to vary.

Pursuant to subsection 36(2) of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)* SOR/2014-104 when granting a request to withdraw, the Agency may impose terms and conditions that it considers just and reasonable, including the awarding of costs. Section 25.1 of the CTA is the general provision that confirms the Agency has all the powers of the Federal Court to award costs.

When addressing the issue of costs, the Agency considers a combination of factors including the nature of the application, the length and complexity of the proceeding, whether the Agency held an oral hearing, whether parties have acted efficiently and in good faith, and if a party has incurred extraordinary costs to prepare and defend its application.

With respect to Mr. Lukács' request for costs "thrown away", the Agency finds that the request was made contingent on the Agency staying Decision No. 49-C-A-2016; however, no such order was made. Moreover, these costs were not incurred in relation to the application to vary. With respect to the costs of the application, Mr. Lukács is self-represented and therefore did not incur any legal fees, nor has he identified any other costs related to his request. The Agency also notes that the request to withdraw was made early in the proceedings before the parties were notified that the application to vary had been accepted and before the commencement of the time limits for filing an answer.

The request for costs related to the application to vary was also based on Mr. Lukács' claim that British Airways' application is "meritless, vexatious, frivolous and constitutes an abuse of process." However, the Agency has not addressed the merits of the British Airways' application and so has not made any findings in this regard.

Therefore, in light of the above, and in these circumstances, the Agency finds that this is not an appropriate case for an award of costs.

Accordingly, the Agency grants British Airways' request to withdraw its application to vary. There shall be no costs ordered.

BY THE AGENCY:

(signed)

Sam Barone
Member