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March 20, 2016

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Dear Madam Secretary:

Re: Mr. Christopher C. Johnson and Dr. Gábor Lukács v. Air Canada
Application concerning failure to apply the tariff and application of terms and conditions not set out in the tariff and with respect to delayed passengers
Case No.: 15-05627
Request for an Extension

The Applicants are hereby seeking an extension, pursuant to Rule 30(1) of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, S.O.R./2014-104 (“*Dispute Rules*”) to file their reply to Air Canada’s Answer of January 20, 2016.

I. Relief sought

The Applicants are asking the Agency to extend their deadline for serving and filing a reply to Air Canada’s Answer of January 20, 2016 to 10 business days after the receipt of Air Canada’s response to the Notice of Written Questions and Production of Documents dated March 18, 2016 and/or the determination of any request to compel answers and productions pursuant to Rule 32 of the *Dispute Rules*, whichever is later.

II. Summary of the facts

On December 3, 2015, the Applicants brought the within Application against Air Canada. On December 29, 2015, the Agency opened pleadings.

On January 20, 2016, Air Canada filed its answer with the Agency, but did not provide the Applicants with Document A-2, with respect to which Air Canada made a request for confidentiality.

On February 24, 2016, in Interlocutory Decision No. LET-C-A-6-2016, the Agency granted Air Canada's request for confidentiality with respect to Document A-2, and directed that Air Canada provide it to the Applicants after they signed a non-disclosure undertaking. The Agency also directed the Applicants to file their Reply to Air Canada's Answer to the Application within 5 business days from the receipt of Document A-2.

On March 1, 2016, the Applicants served and filed a signed non-disclosure undertaking as directed by the Agency, and advised that they were doing so under protest.

On March 2, 2016, Air Canada indicated its refusal to provide Document A-2 to the Applicants and vexatiously took issue with the Applicants' protest with respect to the undertaking.

On March 8, 2016, Air Canada changed its mind, and indicated that it would provide Document A-2 to the Applicants; alas, only a partially legible copy was provided.

On Friday, March 11, 2016, well after normal business hours, Air Canada provided a high resolution scan of Document A-2 to the Applicants. After careful review of the scan, it became evident that the document was incomplete and certain portions were erased. The Applicants alerted the Agency about this state of affairs on March 15, 2016.

On March 17, 2016, Air Canada acknowledged that it did not disclose a portion relating to reimbursement of expenses of passengers who are denied boarding, but argued that the withheld portion is irrelevant.

The Applicants dispute Air Canada's basis for withholding this portion of the document, and seek disclosure of the complete revised expense policy of Air Canada, without erasure.

On March 18, 2016, the Applicants directed a total of 10 questions and requests for productions to Air Canada, pursuant to Rule 24(1) of the *Dispute Rules*. Under Rule 24, Air Canada is required to answer the questions and the productions by **March 29, 2016** (bearing in mind that March 25, 2016 is Good Friday and March 28, 2016 is Easter Monday, both of which are holidays).

Since the Applicants' deadline for filing their Reply was set relative to the delivery of Document A-2 by Air Canada, the completeness of which is disputed, it is unclear at this point what the Applicants' deadline is for filing their Reply.

III. Arguments in support of the request

Rule 24 of the *Dispute Rules* allows a party to direct written questions and to request production of documents from an adverse party. In the case of an applicant, Rule 24 is of practical value only after the receipt of the respondent's answer to the application, because only then can the issues in dispute be ascertained. The respondent's answers and documents disclosed under Rule 24 can assist an applicant only if the information contained in them can be incorporated into the applicant's reply.

The present extension is sought to create clarity about the Applicants' deadline and to allow the Applicants to incorporate into their reply the information that will likely be contained in the answers and documents that Air Canada will provide in response to the Notice of Written Questions and Production of Documents, dated March 18, 2016. Therefore, the extension is necessary to allow the Applicants to meaningfully exercise their rights under Rules 24 and 20.

IV. Documents relied on

The Applicants rely on all materials that have been served and filed with the Agency in the present proceeding, including but not limited to:

1. Air Canada's Answer of January 20, 2016;
2. Interlocutory Decision No. LET-C-A-6-2016 of the Agency;
3. letters of the Applicants to the Agency dated March 4, 10, and 15, 2016; and
4. Notice of Written Questions and Production of Documents directed to Air Canada, dated March 18, 2016.

All of which is most respectfully submitted.

Dr. Gábor Lukács
Co-applicant and
representative for Mr. Johnson

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