

*Air Transportation Regulations, SOR/88-58, as amended*

**110 (4)** Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

**111(1)** All tolls and terms and conditions of carriage, including free and reduced rate transportation, that are established by an air carrier shall be just and reasonable and shall, under substantially similar circumstances and conditions and with respect to all traffic of the same description, be applied equally to all that traffic.

**113.1** If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate; and
- (b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

**122** Every tariff shall contain

[...]

(c) the terms and conditions of carriage, clearly stating the air carrier's policy in respect of at least the following matters, namely,

- (i) the carriage of persons with disabilities,
- (ii) acceptance of children for travel,
- (iii) compensation for denial of boarding as a result of overbooking,
- (iv) passenger re-routing,
- (v) failure to operate the service or failure to operate on schedule,
- (vi) refunds for services purchased but not used, whether in whole or in part, either as a result of the client's unwillingness or inability to continue or the air carrier's inability to provide the service for any reason,
- (vii) ticket reservation, cancellation, confirmation, validity and loss,
- (viii) refusal to transport passengers or goods,
- (ix) method of calculation of charges not specifically set out in the tariff,
- (x) limits of liability respecting passengers and goods,
- (xi) exclusions from liability respecting passengers and goods, and
- (xii) procedures to be followed, and time limitations, respecting claims.

*Convention for the Unification of Certain Rules for International Carriage by Air – Montreal Convention*

**Article 19 – Delay**

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

**Article 22 - Limits of liability in relation to delay, baggage and cargo**

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4,150 Special Drawing Rights.

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5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

**Article 26 - Invalidity of contractual provisions**

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

**Applicable Tariff Provisions (at the time of Mr. Johnson's flight)**

**International Passenger Rules and Fares Tariff, NTA(A) No. 458**

**Rule 105(5)**

For the purpose of international carriage governed by the Montreal Convention, the liability rules set out in the Montreal Convention are fully incorporated herein and shall supersede and prevail over any provisions of this tariff which may be inconsistent with those rules.

**Rule 80(C)**

**Schedule Irregularity**

(1) Definition

Schedule Irregularity means any of the following:

- (a) Delay in scheduled departure or arrival of a carrier's flight
- (b) Flight cancellation, omission of a scheduled stop, or any other delay or interruption in the scheduled operation of a carrier's flight, or
- (c) Substitution of equipment or of a different class of service, or
- (d) Schedule changes which require rerouting of passenger at departure time of the original flight.

[...]

(4) In the event of a scheduled irregularity, Carrier will either:

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- (a) carry the passenger on another of its passenger aircraft or class of service on which space is available without additional charge regardless of the class of service; or, at carrier's options;
- (b) endorse to another air carrier with which Air Canada has an agreement for such transportation, the unused portion of the ticket for purposes of rerouting; or, at carrier's option;
- (c) reroute the passenger to the destination named on the ticket or applicable portion thereof by its own or other transportation services; and if the fare for the revised routing or class of service is higher than the refund value of the ticket or applicable portion thereof as determined from Rule 100, carrier will require no additional payment from the passenger but will refund the difference if it is lower or,
- (d) if the passenger chooses to no longer travel or if Carrier is unable to perform the option stated in (a), (b) or (c) above within a reasonable amount time, make involuntary refund in accordance with Rule 100 or,
- (e) upon request, for cancellations within Air Canada's control, return passenger to point of origin and refund in accordance with rule 100 as if no portion of the trip had been made (irrespective of applicable fare rules), or subject to passenger's agreement, offer a travel voucher for future travel in the same amount; or, upon passenger request;

(f) for cancellations within Air Canada's control, if passenger provides credible verbal assurance to Air Canada of certain circumstances that require his/her arrival at destination earlier than options set out in subparagraph (a) above, or, for On My Way customers, for cancellations within or outside carrier's control, Air Canada will, if it is reasonable to do so, taking all circumstances known to it into account, and subject to availability, buy passenger a seat on another carrier whose flight is schedule to arrive appreciably earlier than the options proposed in (a) above. Nothing in the above shall limit or reduce the passenger's right, if any, to claim damages, if any, under the applicable Convention, or under the law when neither Convention applies.

(5) Except as otherwise provided in applicable local law, in addition to the provisions of this rule, in case of scheduled irregularity within its control (and outside its control, for On My Way customers) Air Canada will offer:

(a) For a schedule irregularity lasting longer than 4 hours, a meal voucher for use, where available, at an airport restaurant or our on board cafe, of an amount dependant on the time of day.

(b) for a schedule irregularity lasting overnight or over 8 hours, hotel accommodation subject to availability and ground transportation between the airport and the hotel. This service is only available for out of town passengers.

(c) If passengers are already on the aircraft when a delay occurs, Air Canada will offer drinks and snacks if it is safe, practical and timely to do so. If the delay exceeds 90 minutes and circumstances permit, Air Canada will offer passengers the option of disembarking from the aircraft until it is time to depart.