



April 8, 2013

File No. M 4120-3/13-00661

BY FACSIMILE: 416-366-3743

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British Airways
c/o Carol McCall
Paterson MacDougall Law
Barristers and Solicitors
1 Queen Street East, Suite 900
Toronto, Ontario
M5C 2W5

Gábor Lukács
Halifax, Nova Scotia

Dear Madam/Sir,

Re: Complaint about rules governing liability and denied boarding compensation

This refers to the complaint by Gábor Lukács filed with the Canadian Transportation Agency (the Agency) on January 30, 2013 respecting British Airways' alleged violation of paragraph 18(b) and sections 111 and 122 of the *Air Transportation Regulations*, SOR/88-58, as amended (ATR).

On March 22, 2013, British Airways filed its answer to Mr. Lukács' complaint.

On March 23, 2013, Mr. Lukács filed a motion, pursuant to section 32 of the *Canadian Transportation Agency General Rules*, SOR/2005-35 (General Rules), to stay the present proceeding and hold it in abeyance pending the Federal Court of Appeal's decision in File No. A-0460-12 regarding his appeal. In his appeal, Mr. Lukács maintains that the Agency has been acting without jurisdiction by issuing decisions without a quorum of two Members, which he states is in violation of subsection 16(1) of the *Canada Transportation Act*, S.C., 1996, c. 10, as amended.

In view of his appeal, Mr. Lukács submits that the best course of action would be to await disposition of that appeal before proceeding further in the present matter. He contends it would not be a good use of the Federal Court of Appeal's resources to have two appeals filed regarding the same issue.

In Decision No. LET-C-A-55-2013, dated March 27, 2013, the Agency granted British Airways until April 3, 2013 to file its answer to Mr. Lukács' motion and until April 5, 2013 for Mr. Lukács to file a reply.

On April 3, 2013, British Airways submitted that it takes no position either in favour of or in opposition to the motion.

The Agency has considered Mr. Lukács' motion pursuant to subsection 28(1) of the General Rules which states

28. (1) The Agency may allow a postponement or an adjournment

(a) if a delay of the proceedings would be appropriate until a decision is rendered in another proceeding before the Agency or before any court in Canada in which the issue is the same or substantially the same as the issue to be raised in the proceeding;

(b) if a party to a proceeding has not complied with any requirement of these Rules, or with any direction on procedure issued by the Agency, which postponement or adjournment shall continue until the Agency is satisfied that the requirement or direction has been complied with; or


(c) for any other reason, that the Agency may consider necessary in order to ensure a fair hearing of the matter.

(2) On granting the postponement or adjournment, the Agency may impose any terms and conditions that it considers just and reasonable in the circumstances.

The Agency has considered this matter finds that it would not be efficient at this time to continue with this case. Accordingly, the Agency is adjourning this proceeding *sine die* and will continue with it when a decision by the Federal Court of Appeal in File No. A-460-12 is made. The Agency stays the timeline provided in LET-C-A-32-2013.

Should you have any questions regarding the foregoing, you may contact Judy O'Heare by telephone at 819-997-0677, by facsimile at 819-953-7910, or by e-mail at judy.oheare@otc-cta.gc.ca.

Sincerely,


Cathy Murphy
Secretary

BY THE AGENCY:

Geoffrey C. Hare
Member

c.c. Jim Blaney, British Airways, Counsel for the Americas