

SMALL CLAIMS COURT OF NOVA SCOTIA
NOTICE OF CLAIM - Form 1

For Court Use only
Claim No _____

This matter
will take longer
than 2 hours.
____ X
Yes No

CLAIMANT:

Claimant's name Daniel Joseph Serge Lachance
Civic address 86 Silverside Drive, Waverley, NS B2R 1B8
Mailing address 86 Silverside Drive, Waverley, NS B2R 1B8
Phone no. 902-220-2439
Email danlachance72@hotmail.com

DEFENDANT:

Defendant's name Air Canada (Registry ID: 3208933)
Civic address 7373 Cote Vertu West , Saint Laurent, QC H4S 1Z3
Mailing address c/o Douglas A. Tupper, 1300 - 1969 Upper Water Street,
Purdy's Wharf Tower II, Halifax, NS B3J 3R7
Phone no. 514-422-5959 Fax: 514-422-5839
Email

I claim from the Defendant \$900.00 dollars plus interest and plus costs.
or the delivery to me of _____

The reason for this claim is: The Claimant held a confirmed Halifax-Whitehorse-Halifax round trip itinerary on flights of Air Canada. The Claimant is seeking:

1) compensation in the amount of \$800.00 for involuntary denied boarding (bumping) on Flight AC 0289 on February 2, 2014, pursuant to Air Canada's Domestic Tariff Rule 245(E);

2) punitive damages in the amount of \$100.00 for Air Canada providing the Claimant with false information to evade paying denied boarding compensation and to dissuade the Claimant from pursuing his rights.

See attached Details of Claim.

Date Signature of Claimant/Lawyer for Claimant

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

BETWEEN:

DANIEL JOSEPH SERGE LACHANCE

Claimant

- and -

AIR CANADA

Defendant

DETAILS OF CLAIM

Overview

1. Selling more seats than actually available on an aircraft (“overselling” or “overbooking”) is unfortunately a common, albeit questionable practice of airlines, which causes considerable inconvenience and delay to passengers who are involuntarily denied boarding (“bumped”) on their flights as a result.
2. Airlines are required to compensate passengers who are bumped from flights on which they hold confirmed reservation. The amount of the denied boarding compensation payable to passengers is set out in the contract between the passenger and the airline.
3. The Claimant held confirmed reservation on a flight of Air Canada, but was involuntarily denied boarding due to overbooking.
4. The present claim concerns the refusal of Air Canada to fulfil its contractual obligation to pay the Claimant denied boarding compensation.
5. The Claimant is also seeking punitive damages from Air Canada for attempting to mislead and deceive the Claimant about his rights and the status of his reservation in order to dissuade the Claimant from pursuing his rights.

Tariff - the contract between the airline and the passenger

6. Pursuant to s. 67 of the *Canada Transportation Act*, S.C. 1996, c. 10, airlines operating domestic flights (i.e., within Canada), are required to establish a “tariff” setting out the terms and conditions of carriage. Subsection 67(3) requires airlines to apply only those terms and conditions that were set out in their tariff.
7. The contents of a tariff for domestic service is governed by s. 107 of the *Air Transportation Regulations*, S.O.R./88-58. Subsection 107(1)(n) explicitly requires airlines to set out their policy with respect to “compensation for denial of boarding as a result of overbooking” in their tariffs.

Air Canada’s obligations under its tariff

8. Air Canada’s policy with respect to compensation for denied boarding as a result of overbooking is set out in its Domestic Tariff Rule 245, which requires Air Canada to pay \$200, \$400, or \$800, depending on the length of the delay caused to the passenger by the bumping.
9. For delays over 6 hours caused by involuntary denied boarding, Rule 245(E)(2) requires Air Canada to pay denied boarding compensation in the amount of \$800.00.

The Claimant held a confirmed reservation and was involuntarily denied boarding

10. The Claimant held a confirmed reservation for the following Halifax-Whitehorse-Halifax round trip itinerary:

Flight	Date	Depart	Arrive
AC 0603	Feb 2, 2014	Halifax (YHZ)	05:30 am Toronto (YYZ) 07:08 am
AC 0153	Feb 2, 2014	Toronto (YYZ)	08:00 am Vancouver (YVR) 10:07 am
AC 0289	Feb 2, 2014	Vancouver (YVR)	12:30 pm Vancouver (YVR) 03:05 pm
AC 0288	Feb 8, 2014	Whitehorse (YXY)	05:50 am Vancouver (YVR) 08:15 am
AC 0206	Feb 8, 2014	Vancouver (YVR)	09:00 am Calgary (YYC) 11:27 am
AC 0118	Feb 8, 2014	Calgary (YYC)	12:20pm Halifax (YHZ) 09:49 pm

11. On February 2 2014, after the Claimant had boarded Flight AC 0289, leaving Vancouver and destined for Whitehorse, he was asked to disembark because another passenger had been booked with the same seat and the flight was full.
12. Subsequently, Air Canada offered to transport the Claimant on the following flight:

Flight	Date	Depart	Arrive
AC 0291	Feb 2, 2014	Vancouver (YVR)	08:55 pm Whitehorse (YXY) 11:30 pm

13. As a result of the involuntary denied boarding (bumping), the Claimant was delayed to his destination by 8.5 hours.
14. Air Canada failed to provide the Claimant with denied boarding compensation as required by Domestic Tariff Rule 245(E). Thus, Air Canada breached its contractual obligation to the Claimant.
15. Therefore, the Claimant is seeking the payment of denied boarding compensation, as per Domestic Tariff Rule 245(E), in the amount of \$800.00.

Air Canada attempted to mislead and deceive the Claimant

16. The Claimant has requested Air Canada to comply with its contractual obligation to pay denied boarding compensation and/or to explain its reasons for refusing to pay denied boarding compensation on multiple occasions:
 - a. February 17, 2014;
 - b. February 20, 2014;
 - c. February 23, 2014;
 - d. March 3, 2014.
17. In response to the Claimant's requests, Air Canada has repeatedly attempted to mislead and deceive the Claimant by falsely claiming that the Claimant did not have a confirmed reservation and/or that the Claimant's flight was affected by "irregular operation."
18. Air Canada's calculated actions to provide the Claimant with false information to dissuade the Claimant from pursuing his rights are highly reprehensible and constituted a callous disregard for the rights of the Claimants, warranting the award of punitive and/or exemplary damages against Air Canada.

19. The Claimant is seeking punitive damages in the amount of \$100.00.

DATED at Halifax, Nova Scotia, this 7th day of March 2014.

Daniel Joseph Serge Lachance
Claimant