



Civil Resolution Tribunal

Date Issued: August 12, 2024

File: SC-2023-006620

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sullivan v. Air Canada*, 2024 BCCRT 769

B E T W E E N :

JAMES SULLIVAN

APPLICANT

A N D :

AIR CANADA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This dispute is about compensation for a cancelled flight.
2. The applicant, James Sullivan booked a ticket to fly from Fredericton to Vancouver. After he arrived at the Fredericton airport, the respondent airline, Air Canada, cancelled the flight leg from Montreal to Vancouver, and re-routed Mr. Sullivan through Kelowna. Mr. Sullivan says his arrival in Vancouver was delayed more than

3 hours, but less than 6 hours. Mr. Sullivan claims \$400 in compensation under the *Air Passenger Protection Regulations* (APPR).

3. Air Canada says the flight in question was cancelled due to unforeseen engine maintenance performed for safety purposes. Air Canada says Mr. Sullivan was re-booked on the next available flight based on market capacity, so under the APPR, he is not entitled to any compensation.
4. Mr. Sullivan is self-represented in this dispute. Air Canada is represented by an employee.
5. For the reasons set out below, I find in favour of Mr. Sullivan in this dispute.
6. There is a related dispute, SC-2023-006619, about the same issue. The applicants in the 2 disputes are spouses, and the facts and arguments are essentially identical. The spouses were booked on the same flights, at the same time, and were affected by the same cancellation. Air Canada's decision to refuse compensation was the same for each spouse.
7. Since the parties are different, I have written a separate decision for each dispute. However, I find it unnecessary to repeat my reasons in both decisions, since my reasons would be identical. Rather, in deciding this dispute, I fully adopt the reasons and findings of fact set out in my decision in SC-2023-006619. My conclusion and order in this dispute is based on those reasons.

JURISDICTION AND PROCEDURE

8. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. These are the CRT's formal written reasons.
9. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these.

Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

10. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.

ISSUE

11. Is Mr. Sullivan entitled to \$400 in compensation under the APPR?

EVIDENCE AND ANALYSIS

12. I have read the parties' submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.
13. As noted above, my reasons in deciding this dispute are the same as in related dispute SC-2023-006619. I adopt those reasons here, and do not repeat them.
14. For those reasons, I find Air Canada has not proved that it met its duty to mitigate the effects of the aircraft engine delamination. This means Air Canada has not proved that the cancellation was required for safety purposes. So, I find Mr. Sullivan is entitled to \$400 under APPR section 19(1)(a)(i).
15. The *Court Order Interest Act* (COIA) applies to the CRT. I find Mr. Sullivan is entitled to pre-judgment interest from July 25, 2023 (the date Mr. Sullivan's compensation was due). This equals \$21.38.
16. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Mr. Sullivan was successful in this dispute, under CRTA

section 49 and the CRT's rules I find he is entitled to reimbursement of \$125 in CRT fees.

17. Mr. Sullivan argues that I should order costs against Air Canada because it did not disclose detailed information about maintenance and scheduling until after he filed this dispute. Mr. Sullivan did not provide evidence of legal costs. Also, CRT rule 9.5 says the CRT will not order a party to pay another party's legal fees in a small claims dispute unless there are extraordinary circumstances. I find no extraordinary circumstances here. Rather, I find this is a routine claim for compensation under the APPR.
18. Also, to the extent Mr. Sullivan is asking for a penalty against Air Canada for breaching APPR section 19(4), I find that is not within the CRT's jurisdiction to order. See *Isaacs v. Air Canada*, 2024 BCCRT 542 at paragraph 13.
19. So, I dismiss Mr. Sullivan's claim for reimbursement of dispute-related expenses.

ORDERS

20. I order that within 30 days of this decision, Air Canada must pay Mr. Sullivan a total of \$546.38, broken down as follows:
 - a. \$400 in compensation under the APPR,
 - b. \$21.38 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
21. Mr. Sullivan is entitled to post-judgment interest under the COIA, as applicable.

22. This is a validated decision and order. Under CRTA section 58.1, a validated copy of the CRT's order can be enforced through the BC Provincial Court. Once filed, a CRT order has the same force and effect as an order of the BC Provincial Court.

Kate Campbell, Vice Chair