



Civil Resolution Tribunal

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File: SC-2024-005061

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Blades v. WestJet Airlines Ltd.*, 2025 BCCRT 1326

B E T W E E N :

ALEXIS BLADES and DUNCAN BLADES

APPLICANTS

A N D :

WESTJET AIRLINES LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Nyhuus

INTRODUCTION

1. This dispute is about compensation under the *Air Passenger Protection Regulations* (APPR) for flight delays and diversions.
2. The applicants, Alexis Blades and Duncan Blades, were passengers with the respondent airline, WestJet Airlines Ltd. The Blades traveled from Victoria to Palm

Springs, California, via Calgary. Their return itinerary followed the same route in reverse. The Blades traveled with their child, who is not a party to this dispute.

3. WestJet diverted the Blades' flight to Palm Springs, causing them to land in Los Angeles. The Blades say WestJet did not rebook them on another flight to Palm Springs, so they rented a car to complete their journey. The Blades' return flight from Palm Springs to Calgary was also delayed, causing them to miss their connecting flight to Victoria.
4. In the Dispute Notice, the Blades claim \$4,500 for rental car, food, and beverage expenses, APPR compensation for the delays, and punitive damages. The Blades claim \$4,999 in their submissions. Alexis Blades represents the Blades.
5. WestJet says the Blades are entitled to \$478.27 for their rental car, gas, and food expenses, but that the remainder of their claims should be dismissed. WestJet says APPR compensation does not apply because both flights were diverted or delayed due to factors outside its control. An authorized employee represents WestJet.

JURISDICTION AND PROCEDURE

6. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims brought 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. In resolving disputes, the CRT must apply principles of law and fairness. These are the CRT's formal written reasons.
7. CRTA section 39 says the CRT has discretion to decide the hearing's format, 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. Further, 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.

8. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
9. Under CRTA section 48(1), the CRT may make an order on terms and conditions it considers appropriate.

WestJet's name

10. In the Dispute Response, WestJet says the Blades' flights were operated by "WestJet, an Alberta Partnership". I infer that WestJet argues that the Blades either improperly named it or named the wrong business entity. However, WestJet did not explain what this partnership was or provide any evidence about its correct name. Further, WestJet was able to provide a full response to the Blades' claims and did not raise this issue again in its submissions. Given the CRT's mandate that includes the flexible and speedy resolution of disputes, I decided this dispute without asking for submissions about WestJet's proper name.

Standing

11. As I mentioned, the Blades traveled with their child. In the Dispute Notice, the Blades claim APPR compensation only for themselves. However, in their submissions, the Blades also claim APPR compensation for their child. WestJet says the Blades do not have standing to bring claims for their child as their child is not a party to this dispute. For the following reasons, I agree.
12. APPR section 2(1) says that air carriers are liable to passengers for the carrier's obligations set out in APPR sections 7 to 22. In *Mohamed v. Air Canada*, 2023 BCCRT 661, a vice-chair found that the APPR's compensation scheme is based on a passenger's entitlement. While not binding on me, I find this analysis persuasive and I adopt it here. I find WestJet's obligation to pay compensation for flight disruptions under sections 18 or 19 is owed to the inconvenienced passenger, rather than the person who purchased the ticket on the passenger's behalf. As the

Blades did not amend the Dispute Notice to include their child as an applicant, I find the Blades have no standing to claim compensation for their child.

13. The Dispute Notice's purpose is to define the issues and parties and to provide fair notice to the respondent of the claims against them. CRT rule 1.19 says that the CRT will not issue an amended Dispute Notice after the dispute has entered the tribunal decision process except in extraordinary circumstances. I find no extraordinary circumstances exist here. So, I decline to amend the Dispute Notice.
14. So, I do not consider the Blades' child's entitlement to APPR compensation.

Unopenable evidence

15. I was unable to open 3 items of the Blades' evidence, but for the following reasons I find I can fairly decide this dispute without seeing this evidence. The Blades labeled the first 2 evidence items "Screenshot of Flight Data – YYC to PSP (Diverted to LAX with No Rebooked Flight)" and "Flight Info – YYC to PSP Diverted to LAX". Based on these labels, I find the Blades likely uploaded this evidence to establish that their flight to Palm Springs was diverted to Los Angeles and that WestJet did not rebook them on another flight. I find that other evidence already establishes these facts, and that WestJet admits it. So, I find the Blades are not disadvantaged by my inability to review these items.
16. The Blades labeled the third evidence item as "Budget Car Rental Insurance Receipt". I infer this is a receipt that the Blades included to help prove their claim for reimbursement of their expenses. Since WestJet agrees to pay the Blades the amount of vehicle, food, and beverage expenses that they claim in their submissions, which total \$478.27, I find the Blades' expenses claim is no longer a disputed issue between the parties. As before, the Blades are not disadvantaged by my inability to review that evidence.

APPR section 13

17. The Blades say that WestJet did not communicate with them about their diverted flight to Los Angeles. I find they argue that WestJet failed to comply with APPR section 13, which requires an airline to provide certain information to passengers, including the reason for a delay or cancellation. However, the Blades did not request any compensation directly related to this alleged breach. Further, in *McNabb v. Air Canada*, 2021 BCCRT 100, a CRT member held that a carrier's obligation to provide information to its passengers under the APPR is enforced by the Canadian Transportation Agency (CTA) and does not fall within the CRT's jurisdiction. While not binding on me, I agree with the reasoning in *McNabb*. For these reasons, I make no findings about whether Air Canada breached APPR section 13.

ISSUES

18. The issues in this dispute are:

- a. Are the Blades entitled to APPR compensation for their delayed flights?
- b. Are the Blades entitled to reimbursement of their missed prepaid accommodation, punitive damages, and damages for breach of contract?

EVIDENCE AND ANALYSIS

19. As the applicants in a civil proceeding like this one, the Blades must prove their claims on a balance of probabilities, meaning "more likely than not". However, there are exceptions to this principle, which I address below.

20. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision. I note that the CRT provided the Blades with the opportunity to provide reply submissions, but they chose not to.

21. The Blades were scheduled to fly on March 2, 2024, from Victoria to Palm Springs, connecting through Calgary. The second leg of their trip, flight WS 1474, was scheduled to depart Calgary at 2:55 pm and arrive in Palm Springs at 5:10 pm. But due to a delay, it did not depart until 4:30 pm. Then, while on route, the flight's captain decided to divert the flight to Los Angeles, where the plane landed at 8:09 pm. I will discuss the reasons for WS 1474's delay and diversion below.
22. The Blades say that WestJet abandoned them in Los Angeles. They say WestJet did not book them on a flight to Palm Springs, provide accommodation in Los Angeles, or provide allowances for food and beverage expenses. So, the Blades decided to rent a car and drive to Palm Springs. They say they arrived at Palm Spring around 2 am the next day, which is about 9 hours later than originally scheduled.
23. The Blades also experienced delays on their return trip on March 11, 2024. Flight WS 1469 was scheduled to depart Palm Springs at 1:05 pm and arrive in Calgary at 5:10 pm. However, it departed at 1:36 pm and arrived at 5:58 pm. As a result, WestJet determined the Blades could not make their connecting flight to Victoria, so it rebooked them on a later flight. They were originally scheduled to arrive in Victoria at 7:16 pm but arrived over 4 hours later, at 12:02 am on March 12.
24. The Blades claim \$478.28 in expenses, broken down as \$118.78 for meals and beverages, \$52.53 for fuel, and \$306.97 for the rental car. Since WestJet admits it owes the Blades this amount, I will not discuss this claim in any detail. I order WestJet to reimburse the Blades \$478.28.

Are the Blades entitled to APPR compensation for their delayed flights?

25. The APPR applies to flights to, from, and within Canada, including connecting flights. So, I find the APPR applies to the Blades' flights. I also accept WestJet's argument that the Blades are bound by its international tariff, a copy of which is in evidence. I find the tariff's relevant provisions essentially mirror the APPR provisions about flight delays and cancellations. Because the Blades'

itinerary included an international flight, it is also subject to the *Convention for the Unification of Certain Rules for International Carriage by Air* under the *Carriage by Air Act*, commonly known as the *Montreal Convention*.

26. Under the APPR, an airline owes minimum compensation for inconvenience only in the case of delays that are within a carrier's control. An airline does not owe compensation for a delay that is:
- a. due to situations outside a carrier's control,
 - b. within a carrier's control but required for safety purposes, or
 - c. that is a knock-on effect of an earlier flight that was delayed due to situations either outside the carrier's control or within its control but required for safety purposes.
27. APPR section 19(1) sets out the minimum compensation amounts for delays. The amounts increase the longer the delay. The amounts are also larger for "large carriers", which undisputedly includes WestJet.

Flight WS 1474 (Calgary to Palm Springs)

28. The Blades claims \$1000 each in compensation under APPR section 19(1)(a)(iii) for the delay and diversion of flight WS 1474, which resulted in them reaching Palm Springs about 9 hours later than their original itinerary.
29. WestJet argues that it does not owe the Blades compensation for the delay because both delays were caused by weather. Under APPR section 10(1)(c), meteorological conditions or natural disasters that make the safe operation of an aircraft impossible are deemed outside the carrier's control, meaning that a carrier does not owe compensation.
30. WestJet says the delay on the ground in Calgary was caused by snowfall and poor visibility, which made it unsafe to de-ice the aircraft. It says it departed after the weather conditions and visibility improved.

31. WestJet says the flight's captain decided to divert the flight to Los Angeles after receiving reports of wind shear on approach to Palm Springs. WestJet says wind shear is a meteorological phenomenon where wind speed and wind direction rapidly change. It says wind shear is a highly dangerous condition to operate in.
32. In support, WestJet provided an IROPS report, which it issues for all delayed or cancelled flights, and a signed statement from AB, its Team Lead for Flight Dispatch. AB says they reviewed event logs, IROPS reports, Operations Control Centre reports, and METAR and TAF reports. Based on their review of these documents, they explain their interpretation of the reasons for flight WS 1474's delay and diversion. I note that, except for the IROPS report, WestJet did not provide the documents that AB reviewed. However, AB pasted into their statement sections of the various reports along with their analysis.
33. Based on the primary documents in evidence and AB's statement, I am satisfied that (1) flight WS 1474 was delayed on the ground by heavy snowfall intensity, and (2) the aircraft's captain reasonably decided to divert the flight due to the wind shear on the approach to Palm Springs. I note that the IROPS report says that another flight diverted from Palm Springs for the same reason. Further, this is consistent with the Blades' account of the pilot's explanations. They say the pilot announced that the ground delay was due to snowy weather and the de-icing of the plane, and that the diversion was due to heavy winds at the Palm Springs airport.
34. I find that WS 1474 was delayed due to meteorological conditions that made the aircraft's safe operation impossible. So, I find this was a delay outside WestJet's control, and that the Blades are not entitled to compensation under the APPR for this flight.

Flight WS 1469 (Palm Springs to Calgary)

35. I turn to the Blades' return flight on March 11, 2024. The Blades say they are entitled to \$400 each under APPR section 19(1)(a)(i) because they were delayed in reaching Victoria by more than 3 hours, but less than 6.

36. WestJet says that 2 separate delays caused flight WS 1469's to arrive in Calgary 48 minutes late. The first delay happened at the airport in Palm Springs. WestJet says that another WestJet aircraft, flight WS 1485, was unable to start its engines due to an unexpected mechanical failure of its on-board Auxiliary Power Unit (APU). It says that due to the failure of the APU, the ground crew had to start the aircraft's engines with a Ground Power Unit. This delayed the ground crew in attending WS 1469's aircraft to fuel it and load baggage. This resulted in flight WS 1469 departing 31 minutes late.
37. The second delay happened in the air and added a further 17 minutes to the flight. WestJet says there was an air traffic control delay program taking place at Calgary's airport. I note that APPR section 10(1)(d) deems instructions from air traffic control to be a situation outside the carrier's control. So, I agree with WestJet that this second delay was outside its control.
38. However, I find that the first delay, not the second, was the primary reason for the Blades' delay. In Decision No. 122-C-A-2021, the CTA set out that where there are multiple reasons for a passenger's delay in arrival at their final destination, the primary reason for the delay is the most significant contributing factor to the overall delay. While not binding on me, I agree with this reasoning. Here, I find the most significant contributing factor to the overall delay was the knock-on effect of the delay caused by WS 1485's failed APU. This was the first and longer of the 2 delays. So, to determine whether WestJet owes the Blades compensation, I find I must determine whether the delay to WS 1485 was within WestJet's control.
39. WestJet argues the delay was outside its control or, alternatively, within its control, but required for safety purposes.
40. In *Westjet v. Lareau*, 2025 FCA 149, the Federal Court of Appeal upheld a CTA decision in which the CTA found that a carrier claiming that a flight disruption was outside its control, or within its control but required for safety purposes, must establish the claim and provide evidence to support its categorization of the disruption (see paragraphs 51 and 147).

41. To support its categorization of the WS 1469's disruption, WestJet provided the IROPS report for WS 1469 and AB's statement, which includes their interpretation of the IROPS report. AB says the report shows that the ground crew were assisting flight WS 1485, which was running behind schedule due to an inoperative APU. AB explains what a ground crew must do in these circumstances to start an aircraft, and that these actions may delay the ground crew from assisting other flights.
42. I find neither AB's statement nor the IROPS report explain why WS 1485's APU failed. AB merely says, "an APU can fail unexpectedly and without warning." WestJet did not provide flight WS 1485's IROPS report or any other maintenance or event logs for that flight. So, while I accept that an APU can fail unexpectedly and without warning, I find WestJet has not proven that the APU did so in this case.
43. WestJet points to CTA Decision No. 138-C-A-2023, in which the CTA found that a delay caused by an APU failure does not make section 19(1) compensation available. However, in that decision, the CTA found that the APU took in de-icing fluid, causing it to become inoperable. I cannot make a similar finding here, as there is no evidence or explanation about what made WS 1485's APU inoperable.
44. The court in *Lareau* found that disruptions within the carrier's control but required for safety reasons should be limited to events that cannot be foreseen or prevented or, in other words, that cannot be prevented by a prudent and diligent carrier (paragraph 144). Without evidence establishing the reasons for the APU's failure, I find WestJet has not proven that a prudent and diligent carrier could not prevent the failure. I also find that WestJet has failed to prove that the APU's failure was not a result of its own actions or inactions.
45. So, without sufficient evidence establishing that the delay was outside its control or required for safety purposes, I find the delay was within the carrier's control as described in APPR section 12(1). This means that APPR section 19(1)(a)(i) applies, and the Blades are each entitled to \$400 in compensation.

Are the Blades entitled to damages for missed prepaid accommodation, punitive damages, and damages for breach of contract?

46. The Blades claim \$320.72 for missed accommodation in Palm Springs, punitive damages, and “overall breach of contract” for failing to get them to Palm Springs. For the following reasons, I dismiss these claims.
47. The *Montreal Convention*, Schedule VI, Article 29 says that punitive, exemplary, or any other non-compensatory damages are not recoverable. So, on this basis, I dismiss their claim for punitive damages. For similar reasons, I dismiss their “overall breach of contract” claim. The Blades do not connect this breach with any loss, so I find it is a claim for non-compensatory damages.
48. However, I find Article 29 does not prevent the Blades’ claim for the loss of use of a prepaid hotel in Palm Springs. I find this is compensatory in nature, since the Blades paid for something they did not receive because of WestJet’s delay.
49. WestJet denies this claim for 2 reasons. First, it argues this cost was not caused by the delay, since the Blades had already paid for the accommodation before the delay. It provided a non-binding CTA decision in support of this argument. I disagree with WestJet’s argument for the same reasons as the CRT member found in *West v. WestJet Airlines Ltd.*, 2025 BCCRT 1156. In that decision, the CRT member found that the CRT has jurisdiction to order relief in damages if a prepaid expense is a “damage occasioned by delay” that is not excluded by Article 29. The CRT member found that there must be a causal relationship between the delay and the damage, but that this does not limit damage to costs that are incurred after the delay. I agree with this reasoning and find that WestJet could be held liable for the Blades’ missed prepaid accommodation expenses.
50. However, I agree with WestJet’s second argument. It says the Blades have not proven their loss as they have not provided any evidence of their booked accommodation or whether they made efforts to cancel the accommodation. I agree they have not provided this evidence. So, since they have not proven their loss, I dismiss their claim for unused accommodation.

CRT fees and interest

51. In summary, I find the Blades are entitled to \$400 each in compensation for their delayed arrival in Victoria. As they agree, WestJet must also pay the Blades \$478.28 for their expenses.
52. The *Court Order Interest Act* applies to the CRT. I find the Blades are entitled to interest as follows:
- a. APPR section 19(4) requires WestJet to provide compensation for delay within 30 days of the date the Blades made their compensation request. The Blades submitted their request to WestJet on March 18, 2024. So, I find the applicants are each entitled to pre-judgment interest on the \$400 award from April 18, 2024, to the date of this decision. This equals \$23.76 each.
 - b. I find they are entitled to pre-judgment interest on the \$478.28 expenses from the date they were incurred, March 2, 2024, to the date of this decision. This equals \$31.61.
53. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I find Alexis Blades is entitled to reimbursement of \$175 in CRT fees. Neither party claimed dispute-related expenses, so I order none.

ORDERS

54. Within 14 days of the date of this decision, I order WestJet to pay Alexis Blades a total of \$1,108.65, broken down as follows:
- a. \$400 in APPR compensation for inconvenience,
 - b. \$478.28 in expenses,
 - c. \$55.37 in pre-judgment interest under the *Court Order Interest Act*, and
 - d. \$175 in CRT fees.

55. Within 14 days of the date of this decision, I order WestJet to pay Duncan Blades a total of \$423.76, broken down as follows:

a. \$400 in APPR compensation for inconvenience, and

b. \$23.76 in pre-judgment interest under the *Court Order Interest Act*.

56. The Blades are entitled to post-judgment interest, as applicable.

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

Peter Nyhuus, Tribunal Member