

CIVIL AVIATION TRIBUNAL

BETWEEN:

Minister of Transport, Applicant

- and -

Richard John Folk, Respondent

LEGISLATION:

7.7 of the Aeronautics Act
C.R.C., c. 2, s. 803(b)
section 803(b) of the Air Regulations

Competent person at the controls

Review Determination
Gordon R. Mitchell

Decision: January 18, 1990

Heard: Thompson, Manitoba, January 18, 1990

The Minister's decision is confirmed and the penalty of \$125 is due forthwith.

A Review Hearing was held at the Provincial Building, 59 Elizabeth Drive, 2nd Floor Board Room, Room 202 in the city of Thompson, Manitoba, on January 18, 1990, at 13:00 hours.

The Notice of Assessment of Monetary Penalty states that pursuant to 7.7 of the *Aeronautics Act*, the Minister of Transport has decided to assess a monetary penalty on the grounds that you have contravened the following provision:

Air Regulation section 803(b) in that on July 3, 1989, at approximately 16:50 hours local time at the Cross Lake airport, Manitoba, you acted as pilot-in-command of a Bell 204B aircraft, registration C-FDZE, and left the engine running when the pilot seat was not occupied by a person competent to control the aircraft.

Under Miscellaneous Provisions, Part VIII of *Air Regulations*, paragraph 803 states:

The engine or engines of any aircraft shall not be

(a) started unless the pilot's seat is occupied by a person competent to control the aircraft or unless the aircraft is prevented from moving forward; or

(b) left running unless the pilot's seat is occupied by a person competent to control the aircraft.

The Respondent, Richard John Folk, in his written nine-page statement submitted to the Civil Aviation Tribunal, admits to the fact that he did leave the aircraft after landing while the engine was running. He sites reasons why this was done and indicates his belief that it can be done with safety.

The Minister's representative indicated that consideration was allowed because of circumstances and that the monetary penalty assessed could have been much higher.

The regulations covering this action is very clearly stated and my decision is to confirm the monetary penalty of \$125. The penalty is due forthwith to the Minister and is payable to the Receiver General for Canada.