

**CIVIL AVIATION TRIBUNAL**

BETWEEN:

**Luc Gaudet**, Applicant

- and -

**Minister of Transport**, Respondent

**LEGISLATION:**

*Air Regulations*, C.R.C., c. 2, s. 520(1)

**Negligent or reckless operation of an aircraft**

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**Review Determination**  
**J. Rouleau**

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**Decision: November 12, 1986**

TRANSLATION

**Heard:** La Tuque, Quebec, October 28, 1986

**DETERMINATION**

The applicant is contesting a decision by the Minister of Transport dated August 29, 1986, suspending his airline pilot's licence (No. ULA-209770) because of an alleged contravention of section 520(1) of the Air Regulations. A photocopy of the section was entered as exhibit R-1 and a photocopy of the Notice of contravention was entered as exhibit R-2.

The representative of the Minister of Transport, Mr Jules Bourgoin, entered as exhibit R-3 six photographs taken at the place and on the date of the contravention. They show various views of runway 01 at La Tuque airport, on March 11, 1986. The photographs show that the runway was iced over and that a portion of it (between 25 and 45 feet wide depending on the witness) had been cleared.

Mr. Marc Lefèvre testified that on that day he had decided to take off on skis in his single-engine plane. Upon returning to La Tuque, he had a radio conversation with the applicant before he

landed concerning the state of the runway. He said that he advised the applicant not to take off starting from the northern extremity of the runway, with the wind in his back. Mr Lefèvre admitted that he has no experience with twin-engine planes.

The representative of the respondent called Mr Jacques Berubb, who was acting as dispatcher on March 11. He helped the applicant get his plane out of the hangar but he did not observe the takeoff. On cross-examination, he admitted that, depending on the force of the wind, he had sometimes taken off with the wind in his back. He had no experience with twin-engine planes.

The applicant has been working in the La Tuque region since 1982. He testified to the effect that no NOTAM had been issued for La Tuque airport on March 11, 1986, that the operator had decided the runway was operational, and that he had put in his flight plan. He said that the runway was clear over a distance of 2,500 feet, which gave him ample space to take off, even with the wind in his back. The takeoff had started well and he was in perfect control of the situation until he felt a strong pull toward the left, which prevented him from taking off. He said the incident was caused by a mechanical problem. He entered as exhibit A-1 a photo copy of a summary inspection report on the aircraft's engines.

To conclude, the representative of the Minister of Transport stated that the applicant showed lack of judgment in trying to take off on an icy runway with the wind in his back. He had acted carelessly and negligently. He had failed to put the odds in his favour, as a careful pilot should do.

The applicant does not think he acted carelessly. In northern areas, many runways are covered with ice and have a clear strip only 40-45 feet wide. What he had done was common.

The Tribunal believes the witnesses gave testimony in good faith, but notes that none of them has experience with a twin-engine plan. Thus the Tribunal accepts the applicant's version and holds that he did not act negligently and carelessly.

For these reasons, the Tribunal grants the application and rescinds the Notice issued August 28, 1986 suspending his airline pilot's licence.