

CIVIL AVIATION TRIBUNAL

BETWEEN:

Bart Lawrence, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Air Regulations, C.R.C. 1978, c. 2, s. 221

Certification of aircraft as airworthy, Airworthiness

Review Determination
Nairn D. Knott

Decision: September 23, 1991

Heard: Vancouver, British Columbia, May 15 and August 8, 1991

I confirm the Minister's decision and order that the 30-day licence suspension take effect at midnight on the 30th day after Mr. Lawrence receives this review determination.

Review Hearing on the above application heard by the Civil Aviation Tribunal at the Sinclair Centre, Conference Room No. 2, 757 West Hastings Street, in the city of Vancouver, British Columbia, on May 15, 1991, at 09:00 hours, and reconvened at the same place on August 8, 1991, at 09:00 hours.

By Notice of Suspension dated January 15, 1991, Mr. Lawrence was assessed a 30-day suspension, effective February 14, 1991, on the grounds that pursuant to:

Section 221 of the *Air Regulations* in that you certified aircraft C-GLFB as airworthy on April 29, 1990, when all the applicable standards of airworthiness had not been complied with. Fourteen flight hours after your inspection and certification of aircraft C-GLFB, further inspection revealed the following defects:

- main rotor blades corroded beyond limits,

- inboard end of right horizontal stabilizer had 2" crack,
- turbo charger support arm broken,
- unapproved installation of dual oil coolers,
- Airworthiness Directive CF89-17 not complied with (type of grease in the main rotor system), and
- Airworthiness Directive AD82-16-09 not complied with (lamiflex bearings and shims).

A stay of the suspension was subsequently granted by the chairperson of the Tribunal, pending the consideration and determination of the Review Hearing.

At the hearing on May 15, 1991, testimony was given by Mr. Ostafiew and Mr. Johnstone. The latter had been factory-trained by the manufacturer of the aircraft in question. These two witnesses were also cross-examined by Mr. Lawrence. Transport also filed 48 of its 50 Exhibits.

Mr. Lawrence did not appear at the reconvened hearing on August 8, 1991. He did not therefore have an opportunity to cross-examine Mr. Treflin, or to give evidence under oath to present his side of the dispute.

The three witnesses for the Minister each testified that they had in fact personally examined aircraft C-GLFB and each of them confirmed the existence of the six items detailed in the Notice of Suspension. Each of these witnesses stated unequivocally that the presence of any one of the six items, by itself, would cause the aircraft to be classified as failing to meet acceptable standards of airworthiness, and each witness further testified that, in his opinion, these were items that could have seriously affected aviation safety.

Each witness also testified that, in his opinion, the degree of corrosion involving the main rotor blades, the two-inch crack in the right horizontal stabilizer, and the broken support arm of the turbo charger, in all likelihood, did not occur within 14 flight hours and 15 days after the certification of the aircraft as airworthy on April 29, 1990.

Each witness also testified that, in his opinion, the degree of damage to the lamiflex bearings did not occur in that time frame either. Each further testified that the red grease had not been adequately purged and replaced with new, approved grease.

Each of these three witnesses greatly impressed me with their knowledge and experience, and I believe the testimony of each to be highly credible. I deeply regret that Mr. Lawrence's absence at the time of the reconvened hearing did not allow me to hear direct evidence from him.

Based on the evidence that I did hear, I must conclude that Mr. Lawrence did not comply with all the applicable standards of airworthiness of aircraft C-GLFB, as itemized in the Notice of Suspension.

At the conclusion of the reconvened hearing, the case presenting officer for the Minister asked to speak to the length of the suspension. It was his view that a suspension of 120 days was more appropriate than the 30-day suspension originally assessed. I feel, however, that, since Mr. Lawrence was not present and neither Mr. Lawrence nor the Tribunal had received notice, the

doctrine of fairness and natural justice could be offended if I entertained such a motion under the circumstances.

I therefore reaffirm the 30-day licence suspension of Mr. Bart Lawrence, such suspension to take effect at midnight on the 30th day after Mr. Lawrence receives the review determination and these reasons for determination.