

**CIVIL AVIATION TRIBUNAL**

**BETWEEN:**

**Donald T. Brown, Applicant**

- and -

**Minister of Transport, Respondent**

**LEGISLATION:**

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**Review Determination**  
**Barry Dryvynsyde, Q.C.**

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**Decision: September 11, 1986**

**Heard:** Vancouver, British Columbia, September 11, 1986

***To confirm the cancellation of the Applicant's Class 1 (one)***

I am pleased to enclose the following:

1. Your Hearing File (yellow) containing copies of Mr. Brown's Application for Review, Notice of Hearing and Hearing Officer Assignment;
2. Exhibits 1 to 3 inclusive, being the only exhibits filed by either the Applicant or the Respondent during the course of the proceedings.

Your Mr. Snow took with him the original of the Review Determination dated September 11, 1986, signed by the undersigned, together with the single tape recording of the proceedings.

Mr. Teague appeared on behalf of the Respondent and Donald T. Brown appeared on his own behalf. The proceedings commenced at 9:00 am. and were terminated at approximately 11:20 a.m. I affirmed the cancellation of Mr. Donald T. Brown's Class 1 Instructor's Rating on the grounds that Mr. Brown had clearly failed a number of the air exercises as noted on Exhibit 1, the Flight Instructor Rating Report. Such failure occurred during the test flight conducted on June 16, 1986.

Mr. Brown's defence was essentially that he was an instructor of several thousand hours, had successfully qualified all of his pupils, and that apparently the major reason for his failing the test ride was because he was using a test procedure which he taught to his students when asked to complete a radio navigation aid orientation. On the evidence, it was clear that Mr. Brown had failed to "expeditiously apply an orientation procedure" as set out in the Flight Test Guide for Private and Commercial Pilot Licenses, and that the degree of skill to be shown during a test ride for Class 1 flight instructor rating, insofar as it related to airworthiness, was not a test of Mr. Brown's teaching skills, but a test of his aviation skills.

Mr. Brown was anxious that the results of a test ride completed some short period after the failed ride be introduced as evidence. He also submitted that it was not fair to cancel his Class 1 Instructor's Rating because he had performed badly during a "snapshot" period of time, i.e., the test flight. During the proceedings, I told Mr. Brown that I would not accept the evidence concerning the supplementary test ride as it was not relevant to the cancellation of his Class 1 Instructor's Rating by the Minister. My written notes of the determination delivered at the end of the Hearing were that I "accepted the evidence of the Minister's representative that Mr. Brown did not demonstrate on the June 16, 1986, flight test the required degree of proficiency of flying skills with particular reference to radio navigation aid orientation".

I delivered a copy of the Review Determination to Mr. Brown and informed him that he had ten days within which to appeal.