

**CIVIL AVIATION TRIBUNAL**

BETWEEN:

**Minister of Transport, Applicant**

- and -

**Michael Gilbert Connellan, Respondent**

**LEGISLATION:**

*Aeronautics Act, R.S.C. 1985, c. A-2, s. 7.7*

*Canadian Aviation Regulations, SOR/96-433, s. 602.101(d)*

**Uncontrolled Aerodrome, Mandatory Frequency (MF) Zone, Expected Communication,  
Designated Frequency**

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**Review Determination  
Allister W. Ogilvie**

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**Decision: June 6, 2003**

*The Minister has proven, on a balance of probabilities, that Mr. Connellan violated paragraph 602.101(d) of the Canadian Aviation Regulations as alleged. The assessment of a monetary penalty of \$250.00 is upheld. The payment shall be made payable to the Receiver General for Canada and received by the Civil Aviation Tribunal within fifteen days of service of this determination.*

A **review hearing** on the above matter was held Tuesday, May 22, 2003 at 10:00 hours at the Federal Court of Canada, in Winnipeg, Manitoba.

**BACKGROUND**

Perimeter Airlines flies scheduled flights to and from communities in northern Manitoba from its base in Winnipeg. On February 1, 2002, its flight PAG 116, was enroute from Cross Lake to Norway House Manitoba. The Norway House aerodrome is located within a mandatory frequency (MF) zone, wherein aircraft flying into or out of the zone are required to communicate to the flight service station (FSS) their whereabouts at certain specified points.

The Winnipeg FSS did not receive the expected communications from PAG 116. A civil aviation daily occurrence report (CADORS) of the incident was written by NAV CANADA, the FSS provider.

Transport Canada Enforcement Branch became aware of the incident, through its review of the CADORS and an investigation ensued.

Further to that investigation Transport Canada alleged that flight PAG 116's captain had not made the appropriate mandatory radio call when approaching Norway House.

A monetary penalty was levied in the following form:

Pursuant to section 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(s):

COUNT # 1: Canadian Aviation Regulation 602.101(d), in that at approximately 2250 hours UTC, on or about February 1, 2002, at or near Norway House, Manitoba, being the pilot-in-command of a VFR aircraft, to wit, a Swearingen SA226-TC, bearing Canadian registration marks C-FIHB, arriving at an uncontrolled aerodrome, namely Norway House, that lies within an MF area, you did fail to report when on final approach.

As the penalty of \$250.00 was not paid, Transport Canada applied for a hearing before the Civil Aviation Tribunal which took place on May 22, 2003 in Winnipeg, Manitoba.

## **THE LAW**

602. 101 The pilot-in-command of a VFR aircraft arriving at an uncontrolled aerodrome that lies within an MF area shall report

[...]

(d) when on final approach; and

[...]

## **EVIDENCE**

The alleged offender, Mr. Michael Gilbert Connellan, did not attend the hearing. The *Aeronautics Act* at subsection 7.9(2) stipulates that where a person fails to appear the Tribunal shall consider all the information presented by the Minister in relation to the contravention referred to in the Notice of Assessment of Monetary Penalty.

Mr. Welwood, of the Enforcement Branch of Transport Canada Winnipeg, presented the Minister's information.

For a contravention of paragraph 602.101(d) of the *Canadian Aviation Regulations* (CARs) the Minister must establish:

1. The date, place and time of occurrence.
2. The identity of the pilot-in-command of the identified aircraft.
3. That the aircraft was flown under visual flight rules (VFR).
4. The aircraft arrived at the named uncontrolled aerodrome.
5. That aerodrome was located within an MF.
6. The pilot-in-command failed to report on final approach.

Evidence adduced proves that Mr. Connellan was the pilot-in-command of aircraft C-FIHB, Perimeter 116 on February 1, 2002. That flight was flown VFR into the aerodrome at Norway House, Manitoba. Norway House is an uncontrolled aerodrome situated within an MF area. No final approach call was made on the designated frequency, as is mandated by the CARs.

## **DETERMINATION**

The Minister has proven, on a balance of probabilities, that Mr. Connellan violated paragraph 602.101(d) of the CARs as alleged.

The MF zones are established to allow all the users of the aerodrome to ascertain the location and intention of other aircraft in that area. To ignore providing the mandatory information may compromise the safety of that aircraft and of others in the vicinity. Therefore an assessment of a monetary penalty is appropriate and the fine of \$250.00 is upheld.

Allister Ogilvie  
Vice-Chairperson  
Civil Aviation Tribunal