

TRANSPORTATION APPEAL TRIBUNAL OF CANADA

BETWEEN:

Gary Edward Beck, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Aeronautics Act, R.S.C. 1985, c. A-2, s. 6.71(1)

Review Determination
Allister W. Ogilvie

Decision: March 26, 2004

I confirm the Minister's decision to refuse to issue a licence to Mr. Beck on the grounds stated in the Minister's Notice.

A **review hearing** on the above matter was held Thursday, February 19, 2004 at the Standard Life Building in Ottawa, Ontario at 10:00 hours.

BACKGROUND

Mr. Gary Beck has been involved in the aviation business since 1978 and has held both an aircraft maintenance engineer (AME) licence and a pilot licence. Mr. Beck had faithfully renewed his AME licence over the years but had missed doing so upon its expiry on October 1, 1998. He had inadvertently overlooked the renewal date thinking that it expired in the year 2000. He filled out an application for licence renewal dated December 16, 2002. However the form was not submitted at that time as his renewal was the subject of ongoing discussion between himself and Transport officials. The application for renewal was rejected in a Notice from Transport Canada on November 26, 2003 in the following form:

Pursuant to section 6.71 of the *Aeronautics Act*, the Minister of Transport has decided to refuse to issue or amend the Canadian aviation document identified below.

Aircraft Maintenance Engineer Licence 225588

Appendix A

Details of the Minister's grounds for the decision set out above:

The requirements pertaining to the reissue of expired AME licenses, set out in STD 566.03(12), apply to licenses that expired under the current model that came into effect 1 August 1999. If an AME licence expired prior to August 1, 1999, the licence holder would not have been part of the transition into the new licensing model. Therefore, applicants who apply for licence renewal that held an AME licence in the previous model, but allowed it to expire, must meet the conditions of initial issue under the current standard.

Mr. Beck applied to the Tribunal for a review of the Minister's decision not to issue his Canadian aviation document. The hearing was held before a single member on February 19, 2004 in Ottawa.

EVIDENCE

Evidence adduced by the Minister shows that Mr. Beck's AME licence expired on October 1, 1998. Although Mr. Beck and Transport Canada officials had talked about reestablishing his credentials, Mr. Beck did not officially reapply until he submitted an application dated December 16, 2002. It is not clear exactly when Mr. Beck handed in this application but it was actioned by Transport Canada in November of 2003.

Major revisions to the regulatory standards that govern AME licensing and training (*Airworthiness Manual* Chapter 566) were enacted as of August 1, 1999. The revision created substantial changes in the licensing and training regime. For example a number of ratings were consolidated along with an increase in the scope of accompanying privileges attached to each rating. The provisions also allowed for the transition of existing AME licences into the new categories that were created.

This revision was the end result of almost four years of a consultation process between the regulator and the industry. Members of the aviation maintenance community were alerted to the licensing changes through the issuance of various Airworthiness Notices. These Notices were sent to all persons on the regulator's list whether their AME licences were valid or not.

Ms. Brittain, the Superintendent of Licensing and Training testified that as of August 1, 1999 currently valid AME licences were transitioned into the new system and the former ratings ceased to exist. She stated that the licence renewal provisions in Chapter 566 of the *Airworthiness Manual*, amended as of August 1, 1999, applied only to those ratings that were valid under that new regime.

Mr. Beck explained that he had inadvertently allowed his licence to expire. He had thought it valid until the year 2000, not 1998. He did submit a photo under the new regime as the new

licences required one. As well Mr. Beck also holds a commercial pilot licence that is still valid although he has not flown recently.

Mr. Orr, an experienced AME/pilot, related that there was a great deal of confusion when the licences were transitioned, that many AMEs were not able to renew or had difficulty renewing their documents.

DISCUSSION

The question before me is whether Mr. Beck was the holder of a licence which would be subject to reissue under the licensing scheme enacted in August of 1999. I find that he was not. The evidence shows that Mr. Beck's AME licence expired in October of 1998. He submitted a reapplication that was dated in December of 2002, some four years later. Between those dates a new licensing regime had been instituted.

It was argued that the submission of a photograph, a requirement under the regime, should have been sufficient to constitute an application for renewal. Even if Mr. Beck could be considered the holder of an expired licence under subsection 566.03(12) of the *Airworthiness Manual* he would still have had to submit application form 24-0083 along with the required payment. The mere submission of a photograph would not be enough.

The Minister has submitted that section 566.03 applies only to holders of licences that were issued under that section after August 1, 1999 or to licences that had transitioned from the old scheme to the new. I accept that proposition as the evidence shows that the regime was substantially different from the old. It was not just a renaming of licences. The new consolidated ratings carried different privileges than had the former. The training required to hold a licence was greatly different.

In essence, when Mr. Beck had allowed his licence to lapse on October 1, 1998 he was no longer the holder of a valid licence when the new licensing scheme was enacted in August of 1999.

It was argued that his reissue should follow under the current standards of issuance of an AME licence. However paragraph 566.03(12)(a) speaks to "Holders of licenses". As Mr. Beck had allowed his licence to expire under the former regime he was no longer the "Holder of a licence" and hence those reissue provisions were not applicable to him.

I also reject the argument that the renewal should be analogous to the renewal of his pilot licence as the regulations governing their respective renewals are separate and distinct falling under Part IV of the *Canadian Aviation Regulations* rather than the *Airworthiness Manual* sections.

CONCLUSION

I confirm the Minister's decision to refuse to issue a licence to Mr. Beck on the grounds stated in the Minister's Notice.

Allister Ogilvie
Vice-Chairperson
Transportation Appeal Tribunal of Canada