

CIVIL AVIATION TRIBUNAL

BETWEEN:

John R.A. Clarkson, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Aeronautics Act, S.C., c. A-2, s.8.4(1)

Air Regulations, C.R.C. 1978, c.2, s.826(1)

**Review Determination
Robert J. MacPherson**

Decision: March 31, 1994

On March 31, 1994, I rendered a Review Determination as to Contravention wherein I determined that:

Northern Manitoba Outfitters Ltd. Did contravene subsection 826(1) of the Air Regulations.

As agreed by the parties at the Review Hearing, I subsequently entertained written submissions as to Sanction. I now impose the following Sanctions:

The suspension is upheld on all counts 1-69: 3 days each

These suspensions shall run consecutively for a total of 207 days commencing fifteen days following service of the present Determination as to Sanction.

The **Review Hearing** on the above matter was held Tuesday, March 22, 1994 at 10:00 hours, at the Berens River Community Centre, in Berens River Indian Reserve, Manitoba.

BACKGROUND

On March 31, 1994 I rendered a Review Determination wherein I determined the following:

"I find that Northern Manitoba Outfitters Ltd. did contravene subsection 826(1) of the Air Regulations.

As agreed during the hearing, I will accept written submissions as to Sanction prior to finalizing the hearing determination."

DISCUSSION

The following is a Discussion of written arguments as to Sanction, received as requested in the Review Determination as to Contravention dated March 31, 1994.

Northern Manitoba Outfitters Ltd. was given the opportunity to produce evidence that was alluded to during the Review Hearing. The "evidence" was to consist of information from a diary kept by the owner of Northern Manitoba Outfitters Ltd. relating to flights not entered in the journey log book of C-GRNC. Further evidence was to come from the "Air Bills" produced from the flights, as the pilot got paid on a mileage basis.

Northern Manitoba Outfitters Ltd., in its written submission dated May 16, 1994, states:

"I find that for the most part, our pilot, Alan Jasper, was neglectful in keeping his log book entries up to date or had inaccurate times."

Then the submission goes on with various explanations regarding specific trips, ten to be exact. Mr. Clarkson, the owner of Northern Manitoba Outfitters, has no knowledge of trips 11-22 as he was out of town.

Similarly flights 46-58 were not accounted for as "We were extremely busy at this time".

In total Northern Manitoba Outfitters has some explanation for 10 trips, were out of town for 11 trips, and were "very busy" during a further 12. This accounts for only 33 of the 69 infractions.

I have been given no evidence that dishonesty was a part of the missing log book entries as was indicated at the Review Hearing.

I have evidence that all entries in the pilot's (Jasper) personal log were also recorded in the aircraft journey log (Testimony of Inspector Davis).

I have no evidence of who was the actual pilot on any of the 69 flights in question.

The onus is on the owner and operator of a Commercial Air Service to maintain acceptable records. Mr. Clarkson is attempting to deflect the sanction by the implication of his pilot (Jasper).

Further, Clarkson, in his submission, states: "What has happened here, with this inspection, has taught him a lesson (Jasper)".

The lesson has to be learned by the owner of the aircraft. Northern Manitoba Outfitters Ltd. is the owner of the aircraft C-GRNC. Mr. Clarkson is the owner of Northern Manitoba Outfitters Ltd.

The regulations require the journey log books of aircraft to be kept up on a daily basis, in fact as soon as practical after every flight. This is not a new, or a newly changed regulation. Northern Manitoba Outfitters and Mr. Clarkson are well aware of the regulation.

I have no new evidence to support the statements made at the original Review Hearing, and therefore will not disturb the findings of that hearing.

DETERMINATION

The suspension is upheld.

SANCTION

I now impose the following sanctions:

On all counts 1-693 days each.

These suspensions shall run consecutively for a total of 207 days.

R.J. MacPherson
Member
Civil Aviation Tribunal