

CIVIL AVIATION TRIBUNAL

BETWEEN:

Minister of Transport, Applicant

- and -

Joseph Paul William Stanlake, Respondent

LEGISLATION:

Air Regulations, C.R.C. 1978, c. 2, s. 210(1)(a)

Certificate of airworthiness, Standards to be met

Review Determination
Jack R. Ellis

Decision: July 4, 1991

Heard: Timmins, Ontario, July 12, 1991

That Mr. Stanlake did contravene paragraph 210(1)(a) of the Air Regulations on August 24, 1990, by flying CESSNA C-FFLI when the certificate of airworthiness was not in force and that the assessed penalty of \$750 shall be made payable to the Receiver General for Canada and mailed to the Civil Aviation Tribunal, 344 Slater St., Room 405, Ottawa, Ontario K1A 0N5, on or before October 31, 1991.

EVIDENCE

Mr. Carter, in an opening statement, said that there was agreement that Mr. Stanlake crash-landed a Cessna 150 Aircraft, C-FFLI on final at Timmins Airport after a flight from Amos, Quebec, on August 24, 1990. Mr. Alexander agreed.

RCMP Constable Gagnon was sworn. Since the RCMP had seized all the documents relating to the aircraft C-FFLI for other reasons, it was agreed that photocopies made by the constable in the hotel that morning, would be introduced as evidence in lieu of originals. These were marked Ministry exhibits M-1, M-2, M-3, M-5.

Mr. Reg Phillips, DoT Aviation Inspector/Investigator, was sworn. Mr. Phillips said he had been assigned as a result of the accident. Mr. Phillips introduced the Occurrence Report, marked M-4, which was the first official notification of the investigation.

Mr. Phillips reviewed the documents introduced by Constable Gagnon, noting that the C of A was only in force if the provisions of paragraphs 5, 6 and 7 were in compliance. He pointed out the list of deficiencies written in the journey log by an AME whose name was determined as Gratton. This list included two airworthiness directives (ADs). Mr. Phillips concluded, therefore, that the C of A was not in force.

During cross-examination, Mr. Alexander pointed out that Mr. Stanlake had taken his aircraft in for certification prior to the anniversary date and asked if ADs were always critical. Mr. Alexander introduced five photos of C-FFLI, which were marked D-1, A to E, and which he claimed had been taken after the repairs were accomplished.

Mr. Carter introduced Exhibits M-6 and M-7, which were documents to assist in following the chronology of events and to explain certain other documents.

Mr. Devindar Soni, AME at the Nighthawk Flying Club at Iroquois Falls, was sworn. Questioned by Mr. Carter, Mr. Soni agreed he had done some of the work on C-FFLI requested by Mr. Stanlake, but not all. He claimed to have asked Mr. Stanlake for a new muffler, saying there was a bulge in the old one under the shroud.

Mr. Soni stated that he had told Mr. Stanlake the aircraft was not ready, but that, upon return from his (Mr. Soni's) trip to Toronto, the aircraft was gone.

Under cross-examination by Mr. Alexander, Mr. Soni declared that he had put his date stamp in the log by mistake and had not intended to sign the log. He had billed Mr. Stanlake for \$2,800 and only received \$1,600.

Questioned in detail by Mr. Alexander, Mr. Soni agreed he had removed the muffler and crank shaft seals. He also agreed he had replaced the crank shaft seals, O-rings, battery, ELT, oleo, brakes, control yokes, glove box door, right tube, oil lines, air filter, oil screen and seat adjusting rod and had changed the oil. He replaced the muffler using lock washers and nuts but denied the work on the muffler had been completed. He also denied he had replaced the fuel lines or completed the compass swing.

Mr. Soni denied he had advised Mr. Stanlake to stay away from Timmins since there were "too many inspectors" but agreed he kept the logs for C-FFLI at his home. He agreed he had returned old parts to Mr. Stanlake but denied that the old fuel lines were included. Mr. Soni said there was some work unfinished and that the job was not done until he signed the log.

Mr. Norman Rancourt, Superintendent for Airworthiness Aviation Regulation, Transport Canada, Timmins office, was sworn. He had been an AME for 12 years before joining Transport 17 years ago. Mr. Rancourt also established that the C of A was not in force.

Susan Gauthier, sister of Mr. Stanlake, was sworn to say she had driven to Iroquois Falls in May of 1990 to pick up Mr. Stanlake after he had delivered the aircraft there.

Mr. Stanlake was sworn. Questioned by Mr. Alexander, he agreed that the accident had taken place on August 24, not on the 22, as noted in his personal log. He recounted his purchase of the aircraft at Van Kleek Hill near Ottawa, stating that the vendor told him the deficiencies listed in the log were not important. He took the aircraft to Iroquois Falls prior to the anniversary date of the last inspection. There, he left directions for Mr. Soni to inspect and do whatever work was necessary to certify the aircraft.

He claimed to have given Mr. Soni \$1,000 in a parking lot in Timmins and \$800 more in Mr. Soni's home in South Porcupine.

Mr. Stanlake claimed that Mr. Soni told him at his (Mr. Soni's) home that the aircraft was ready but that he should not fly it near Timmins, that there were too many inspectors there. There was no indication that there was any work left to do and Mr. Stanlake was to pick up the keys from someone named "Bo" at the Nighthawk Flying Club. Mr. Soni said the final bill was \$2,800 and that he would sign and deliver the logs later.

Mr. Stanlake further claimed that, when he went to get the aircraft at the club, the chief flying instructor was aware that he was coming, got the keys for him and confirmed that it was ready to fly. During his pre-flight inspection, Mr. Stanlake noted everything was in place, and he then flew the plane back to Timmins with his girlfriend as a passenger.

After the accident, Mr. Stanlake asked Mr. Soni to sign the logs, but he refused "because of the accident". Mr. Stanlake got the logs from Mr. Soni and turned them over to the Canadian Aviation Safety Board.

In summary, Mr. Carter noted the evidence that the C of A was not in force, that the aircraft had been flown without logs on board, the disagreement between Mr. Stanlake and Mr. Soni, and that the Act did not require intent to be proven.

Mr. Alexander questioned whether due diligence had been proven in that Mr. Stanlake had taken the aircraft in on time and asked for a complete job. He claimed it was open for the Tribunal to decide whether Mr. Stanlake had been wilfully blind or misled when Mr. Soni had not filled in the logs.

SUMMARY

Since there was no argument that Mr. Stanlake had been flying the aircraft, my only decision was whether or not the C of A was in force. The overwhelming evidence was that the C of A was not in force when the aircraft had been flown on more than one occasion.

I had to ignore much of the testimony since it had to do with a dispute between Mr. Stanlake and Mr. Soni. That there is a major disagreement between these two is obvious. On balance, I found Mr. Stanlake closer to the truth but that could not influence my decision.

I therefore find that Mr. Stanlake did contravene paragraph 210(1)(a) of the *Air Regulations* on August 24, 1990, by flying Cessna C-FFLI when the certificate of airworthiness was not in force and that the assessed penalty of \$750 shall be made payable to the Receiver General for Canada and mailed to the Civil Aviation Tribunal, 344 Slater Street, Room 405, Ottawa, Ontario K1A 0N5, on or before October 31, 1991.