

**CIVIL AVIATION TRIBUNAL**

BETWEEN:

**Minister of Transport**, Applicant

- and -

**John Alexander Young**, Respondent

**LEGISLATION:**

*Air Regulations*, C.R.C. 1978, c. 2, as am., s. 506(a)

**Failure to comply with ATC Instructions**

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**Review Determination**  
**Jack R. Ellis**

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**Decision: May 22, 1992**

***THE MINISTER'S ALLEGATION IS UPHELD. THE PENALTY OF \$200.00 IS UPHELD. THIS AMOUNT, PAYABLE TO THE ORDER OF THE RECEIVER GENERAL FOR CANADA, IS TO BE RECEIVED BY THE CIVIL AVIATION TRIBUNAL AT THE ABOVE ADDRESS WITHIN 15 DAYS OF RECEIPT OF THE PRESENT DETERMINATION.***

**The Review Hearing** on the above application was held in Committee Room No. 2 at the North York Memorial Community Hall, 5110 Yonge Street, North York, Ontario, on May 5, 1992, commencing at 14:15 hours.

**BACKGROUND**

This matter arises pursuant to section 7.7 of the Aeronautics Act whereby on December 13, 1991, the Minister of Transport assessed a monetary penalty of \$200.00 against John Alexander Young on the grounds that he contravened the following provisions of the Air Regulations:

"Air Regulations, s. 506(a) in that on or about May 4, 1991, at or near the Toronto Island Airport, at approximately 21:30 UTC (17:30 local) you, as pilot-in-command, flew an aircraft, to wit, a Cessna 172M bearing registration C-GGVN,

and failed to comply with air traffic control instructions directed to and received by you. You were instructed by the air traffic controller to execute a full-stop landing; after the instruction was clarified, you said, "forget it, I'm going to Oshawa...".

Air Regulations s. 506 reads in part as follows:

"The pilot-in-command of an aircraft shall comply with and acknowledge receipt of all air traffic control instructions directed to and received by him"

## **EVIDENCE**

It is important to note that this hearing followed a hearing on a further charge against Mr. Young, arising out of the same flight and occurring immediately prior to this charge. That hearing was held at the same time and place under CAT file number O-0297-02. The Transport file number is identical. The only reason for hearing the files separately was to accommodate Mr. Young. All witnesses and Exhibits were the same and the witnesses were considered to be still sworn from the previous case. The files should be read consecutively.

Mrs. Scott was again questioned by Mr. Kaufman. She stated that after C-GGVN had crossed in front of the Cessna on final she did not know what the intentions of Mr. Young were and so instructed him to land at once and do a full stop. At the same time, she instructed other aircraft in the circuit, individually, in turns etc., which would have them clear of the circuit momentarily to allow C-GGVN to land.

Instead, Mr. Young did another circuit and was again told, most firmly, to land and come to a full stop. This time Mr. Young said he preferred to go to Oshawa. Mrs. Scott agreed, as she said, to get him out of the circuit.

Mr. Kaufman played the appropriate portions of the tapes to clarify the evidence. These tapes also contained a telephone conversation between Mr. Young and Mrs. Scott during which they disagreed as to what had happened. The telephone conversation became quite heated, with Mr. Young acknowledging most of the transmissions while at the same time claiming he had not heard them.

During what was supposed to be cross-examination of Mrs. Scott by Mr. Young the conversation became equally heated with, for example, Mr. Young claiming that perhaps he had been too high to land the first time and Mrs. Scott insisting that he could easily have landed on the first half of the runway.

(Note as hearing officer, I perhaps let this portion continue longer than was necessary but did so because of my attempt to give Mr. Young extra leeway and because, during the playing of the taped telephone conversation, I felt Mrs. Scott should be allowed to defend herself, particularly against some of Mr. Young's comments which were quite chauvinistic.)

It was established that, despite the declared intention to "go to Oshawa" the telephone call actually came from Buttonville. Mr. Kaufman asked permission to introduce a witness from the control tower at Buttonville, claiming that there had been a problem with Mr. Young there also, but since there was no mention of Buttonville in the charges I declined to allow this.

Mr. Montgomery, when asked, fully supported Mrs. Scott's contention that the aircraft could easily have landed and stopped.

In summary, Mr. Kaufman repeated his allegation from the previous case and did the same with regard to the sanction.

Mr. Young, in summary, said that he had no recollection of doing the 360 turn or the touch and go. He felt the obvious anger on both sides was unprofessional and stated that the tape did not sound like him. He made the same arguments as previously regarding sanction.

## **CONCLUSION**

This charge is obviously an extension of the previous charge. In my opinion Mr. Kaufman made the case for the Minister clearly. Once again, the actions of Mr. Young are not those of an experienced pilot with the hours logged as claimed by him. Had he followed the direction of the controller, none of this would have happened. One can only hope that Mr. Young's behaviour was a one-time aberration and that it will never be repeated.

**I THEREFORE UPHOLD THE ALLEGATION AND CONFIRM THE PENALTY OF \$200.00 ASSESSED BY THE MINISTER OF TRANSPORT.**

J.R. Ellis  
Member  
Civil Aviation Tribunal