

CIVIL AVIATION TRIBUNAL

BETWEEN:

Jules Proulx, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Air Regulations, C.R.C., c. 2, s. 520(1)

Negligent or reckless operation of an aircraft

Review Determination
Zita Brunet

Decision: November 12, 1986

TRANSLATION

Heard: Montréal, Quebec, November 7, 1986

I uphold the decision by the Department of Transport to suspend the licence of Jules Proulx (No. ULA-1562) for a period of 15 days.

The Review Hearing took place before the Civil Aviation Tribunal on November 7, 1986, at the request of Mr. Jules Proulx. The Minister alleges that Mr. Proulx contravened section 520(1) of the *Air Regulations* and wants to suspend his airline pilot licence (No. ULA-1562) for a period of 15 days (from 00:01 hours on August 20, 1986, to 23:59 hours on September 4, 1986).

Section 520(1) stipulates that: "No aircraft shall be operated in such a negligent or careless manner as to endanger or be likely to endanger the life or property of any person".

"The Department of Transport alleges that on April 25, 1986, between 13:35 and 13:45 hours local time, when Mr. Proulx was pilot-in-command of the CL-215 aircraft, with registration marks C-FYWO, he landed and took off three times on the St. Lawrence Seaway, at the St. Helen's Island Marina in Montréal, in order to practice pick up and drop water. During each of

the three approaches, the aircraft flew over the south portion of the Jacques-Cartier Bridge, at most 100 feet above it, thus endangering the lives and property of others and operating in a negligent manner."

The applicant, Mr. Jules Proulx, was represented by Daniel Morin of the Quebec Government's legal branch.

Both parties had every opportunity to present their evidence, make their observations on the penalty imposed by the Minister, and call, examine and cross-examine witnesses.

Two Ports Canada police officers, Richard Kelly and Pierre Dubois, were patrolling the Jacques-Cartier Bridge. They testified that they had seen the aircraft in question passing over the bridge at a low altitude. They saw it passing at eye level as they were seated in their car. They saw cars brake and stop. They thought this could have had serious consequences for the passing traffic.

The two pilots testified that they had decided to check out the aircraft in preparation for a demonstration the next day. They decided to go through their manoeuvres, and they contacted the control tower at St-Hubert Airport. They were told there was no restriction on going to Jacques-Cartier Bridge. This point is contested by the Department of Transport. The co-pilot said that they had decided to pass over the bridge at its lowest point in order to avoid hitting it, and that their altitude had been 800 feet over the water.

Mr. Gilles Simard, director of operations, testified that Jules Proulx's flying ability is out of the ordinary. He is an excellent pilot, "without compare". He said there was no danger as long as the engines were idling when the aircraft was flying over the bridge.

I think there is no doubt that Jules Proulx is an excellent pilot and that he showed good intentions in making the effort to get approval from a control tower before practising his manoeuvres.

However, I also think that, in the absence of an emergency, flying over a bridge at an altitude that affected car traffic posed an unnecessary danger to the cars. It is lucky that the incident did not cause an accident, as it might have.

I therefore uphold the Minister's decision to suspend Mr. Proulx's pilot licence (No. ULA-1562). The stay of the suspension, which was granted on August 21, 1986, will terminate on November 27, 1986.

Mr. Proulx's licence is suspended for fifteen days beginning on November 27, 1986, at 00:01 hours.

APPLICATION DETERMINATION

In the matter of the Application by Jules Proulx to postpone the date set for suspension of licence for contravention of section 520(1) of the *Air Regulations*, as alleged by the Minister:

It is hereby certified that after service of Notice to the parties by the Tribunal setting out the date, time and place for the consideration of the particulars of this matter, said consideration was held on the 21st day of August 1986 at 11:00 hours in the city of Ottawa.

At the conclusion of the said consideration before this Tribunal, I have determined the following:

In the absence of any objection on the part of the Minister, and in the absence of any immediate or probable danger to aviation safety, the penalty imposed by the Minister is stayed until the Review Hearing has been concluded.