

CIVIL AVIATION TRIBUNAL

BETWEEN:

Michael P. Sowsun, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Air Regulations, C.R.C. 1978, c. 2, s. 520(1)

Negligent or reckless operation of an aircraft

Review Determination
Robert J. MacPherson

Decision: April 7, 1987

Heard: Winnipeg, Manitoba, April 7, 1987

That the suspension is confirmed. The suspension was carried out between February 26, 1987, and March 10, 1987.

Transport Canada contends that Sowsun contravened section 520(1) of the *Air Regulations*. The issue is operation in a negligent or reckless manner as to endanger or be likely to endanger the life or property of any person. The issue is one of safety.

The facts are as follows:

Transport Canada produced and examined three witnesses.

Witness No. 1: Sgt. Dominato of the Swan River RCMP was at the airport when the takeoff in question took place. Sgt. Dominato is a private pilot and has a basic knowledge of aircraft traffic patterns. He was attracted to the takeoff by the low altitude of the aircraft, the steep bank after takeoff and the sudden pull up approximately 300 feet from the airport building. His reaction was to verify the aircraft and the pilot and to inform Transport Canada.

Witness No. 2: Clifford Arlt is the owner of the air service at the airport and a witness to the incident. Mr. Arlt is an ATP licensed pilot and an instructor and is qualified on the type of aircraft in question. He testified to a 30° bank turn, 50 feet from the ground and a rotation over the buildings at 100–200 feet AGL.

Witness No. 3: B. Palzer of the RCMP Winnipeg Detachment identified the aircraft and pilot on landing at Winnipeg. He also read from his notes, stating Sowsun admitted to a low takeoff from Swan River.

Michael Sowsun: Testified he also had concerns re: safety. Sowsun elaborated on his ability to fly the aircraft. Under cross-examination, he stated his credentials, water bombing and low-level flying experience. Sowsun identified two sections of his employer's operations manual (Exhibits 7 and 8). Mr. J. Loan of Transport Canada entered Exhibit 9, his notes of a conversation with Sowsun December 9, 1986, whereby Sowsun agreed "I would probably never make that turn again" and "just a poor example for anyone else, and a foolish thing to do".

Sowsun admits that the low level takeoff was as represented by the evidence and his own statements. Sowsun contended that because of his past experience and time on type, it was okay for him to execute this type of takeoff safely, and did not cause danger to any persons or property. He also stated that as an instructor, he would not teach this type of takeoff to a student and would not do it again himself.

Quoting *Air Regulation 520(1)* "No aircraft shall be operated in such a negligent or reckless manner as to endanger or be likely to endanger ..." The regulation does not qualify pilot experience as a reason.

Mr. Sowsun is an ATR pilot and a former flight instructor; he is and was aware of the *Air Regulations*.

Therefore, it is the determination of this review that the suspension is confirmed.