

**CIVIL AVIATION TRIBUNAL**

BETWEEN:

**Christopher S. Adams**, Applicant

- and -

**Minister of Transport**, Respondent

**LEGISLATION:**

*Air Regulations*, C.R.C. 1978, c. 2, s. 218(c)

**Unsecured cargo**

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**Review Determination**  
**D.S. McClure**

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**Decision: December 14, 1990**

**Heard:** Gander, Newfoundland, December 11, 1990

*That an infraction of Air Regulation 218(c) did indeed occur and I, therefore, confirm the Minister's suspension of Mr. Adam's commercial licence and advise the Applicant (licence holder) that this suspension will become effective on January 11, 1991, at 24:00 hours and will remain in effect until February 25, 1991, at 24:00 hours.*

After submission of all the evidence presented by Transport Canada, I can only conclude that there was, indeed, a breach of Air Regulation 218(c), a regulation which is very clear and explicit in its definition of secured cargo.

Evidence was presented by Transport that a recent fatal accident had occurred under almost identical circumstances. Inspector Dhillon, in his evidence, advised that Mr. Adams had entered into discussions with him previously, relative to the securing of cargo, although Mr. Adams strongly disputed just what was said during this discussion. I do not feel that Mr. Adams presented a reasonable rebuttal to the evidence presented that would convince me that this lack of regulated cargo security would constitute a safe operation under all possible conditions or occurrences in flight. His only argument was based on the assumption that "the cargo was

secured because it was so tightly packed, it could not move", an assumption that I am not prepared to accept.

I had initially, upon completing my determination, felt that the suspension period was somewhat excessive, but after listening to Mr. Trethewey's address on sanctions, after I had advised both parties of my determination, I feel that the suspension period is fair and reasonable in view of Mr. Adam's previous record of infractions.