



TRANSPORTATION APPEAL TRIBUNAL OF CANADA

Citation: *Air Liaison Inc. v. Canadian Transportation Agency*, 2019 TATCE 17 (Ruling)

TATC File No.: Q-4481-80

Sector: Aviation

BETWEEN:

Air Liaison Inc., Applicant

- and -

Canadian Transportation Agency, Respondent

Heard by: Written submissions

Before: Jacqueline Corado, Vice-Chairperson and Member

Rendered: May 6, 2019

[Official English translation]

RULING

Held: The request for review is late and cannot be accepted.

I. BACKGROUND

[1] On February 8, 2019, the applicant sent the Transportation Appeal Tribunal of Canada (Tribunal) a request to extend the deadline to file a request for review of a decision by the Canadian Transportation Agency, namely Notice of Violation number 17-03246 issued on December 7, 2017 (Notice).

[2] The applicant had until January 11, 2018 to dispute the Notice or pay the associated penalty of \$5,000, pursuant to section 180.1 of the *Canada Transportation Act (CTA)*. The applicant did not avail itself of either of these options.

[3] In support of its request, the applicant submitted that it learned of the existence of Notice of Violation number 17-03246 only on February 1, 2019, when the Canadian Transportation Agency sent an email to Mathieu Gingras, director of Air Liaison Inc., informing him that no payment had been received.

[4] The Canadian Transportation Agency is opposed to the late request for review.

II. ISSUES

A. Is the request for review late?

B. Are there any valid reasons for extending the deadline to request a review of Notice 17-03246?

III. ANALYSIS

A. Is the request for review late?

[5] Pursuant to subsection 180.3(1) of the *CTA*, a person who is served with a notice of violation and who wishes to have it reviewed shall, on or before the date specified in the notice or within any further time that the Tribunal on application may allow, file a written request for a review with the Tribunal at the address set out in the notice.

[6] The applicant had until January 11, 2018 to request a review of the Notice; it did not do so until February 8, 2019. The request for review was filed almost 13 months late.

[7] Notice 17-03246 states that Air Liaison Inc. violated section 57 of the *CTA* by operating an air service without a valid licence for this service. Air Liaison Inc. is charged as the corporation acting as an air carrier. Section 2 of the *Air Transportation Regulations* defines *air carrier* as “any person who operates a domestic service or an international service”. Subsection 55(3) of the *CTA* states that the definition of *person* includes an individual, a partnership, an association, a corporation, etc.

[8] Section 180 of the *CTA* states that the notice must be served on the person who committed a violation. The Notice identifies Air Liaison Inc. as the person who committed a violation, with the address 607 6^{ième} Avenue de l' Aéroport, Quebec City.

[9] In support of its position, the Canadian Transportation Agency submitted a mailing and delivery confirmation showing that Notice of Violation number 17-03246 was sent to Air Liaison Inc.'s address on December 7, 2017 and received on December 8, 2017.

[10] The Tribunal notes that the request for review was submitted much too late, and the Notice was duly sent to the person who committed a violation, Air Liaison Inc., at its known address.

B. Are there any valid reasons for extending the deadline to request a review of Notice 17-03246?

[11] The Tribunal has the discretion to extend the deadline to submit a request for review, pursuant to subsection 180.3(1) of the *CTA*. The Tribunal's *Policy on Late Applications* states that in making a decision on whether to accept a late application for review, the Tribunal will determine whether the applicant has established extenuating circumstances to justify his or her failure to apply for a review within the deadline.

[12] The applicant submitted only on February 8, 2019 that Mr. Gingras, the sole director of Air Liaison Inc., was not informed of the Notice until February 1, 2019, and that he did not know whether the Notice was sent to the offices of Air Liaison Inc., and if it was, who could have received it.

[13] As explained above, the Notice was sent to the applicant's offices, and the proof of delivery shows that it was received by someone named Mr. Cornelius.

[14] On February 19, 2019, after examining the proof of mailing and delivery, the applicant submitted that section 180 of the *CTA* states that the notice must be sent to the person who committed a violation. As mentioned in paragraph 9 of this ruling, the person who committed a violation is Air Liaison Inc., and the Notice was served to this corporation at its known address; there is no question or dispute as to whether this was the right address.

[15] The applicant added that Mr. Cornelius, who signed for the Notice, was a stranger and not someone qualified to receive it. Respectfully, I cannot accept this argument. As decided earlier, the applicant was duly served the Notice at its known address; the respondent is not responsible for checking who at an establishment or place of business receives registered mail on behalf of a corporation.

[16] The applicant lamented that the Canadian Transportation Agency did not send a courtesy email at the same time as the Notice, especially because the Agency communicated by email with someone named Nabil El Attar, of Air Liaison Inc., on July 12, 2017. The Canadian Transportation Agency could have sent a courtesy email to Nabil El Attar to notify him that the Notice had been issued. It would have been nice for the Agency to do this, but it has no legal obligation to do so.

[17] The request for review was submitted almost 13 months late; the reasons presented by the applicant do not justify an extension to the deadline.

IV. RULING

[18] The request for review is late and cannot be accepted.

May 6, 2019

(Original signed)

Jacqueline Corado

Vice-Chairperson and Member

Appearances

For the Minister: Karine Matte

For the Applicant: Éric Savard