

TRANSMISSION VERIFICATION REPORT

TC - CIVIL AVIATION
 AVIATION OPS - HEADQUARTERS
 PLACE DE VILLE, TOWER C
 330 SPARKS ST. 4TH FLOOR
 OTTAWA ON K1A 0N8

FACSIMILE 613 954-1602

TIME : 09/03/2007 14:06
 NAME : KGAUTHIER
 FAX : 7054293097
 SER. # : BROM5F302311

DATE, TIME	09/03 14:05
FAX NO./NAME	16139541602
DURATION	00:01:02
PAGE(S)	02
RESULT	OK
MODE	STANDARD
	ECM



COMPLAINT REGISTRATION

ENREGISTREMENT DE LA PLAINTE

Complaint under / Plainte sous: Part II / Partie II Part III / Partie III Non-smokers' Health Act / Loi sur la santé des non-fumeurs Fair Wages and Hours of Labour Act / Loi sur les justes salaires et les heures de travail

Other - specify / Autre - spécifier

1. Complainant's Name / Nom du (de la) plaignant(e) Kevin S. Gauthier		5. Employer's Name / Nom de l'employeur (x-employer) Air Canada	
2. Complainant's Address / Adresse du (de la) plaignant(e) 12 -53 rd. St. S. Wasaga Beach, ON L9Z 1W8		6. Employer's Address / Adresse de l'employeur	
3. Occupation Pilot	4. Telephone / Téléphone 705 429 3097	7. Type of Operation / Genre d'activité International commercial aviation	8. Telephone / Téléphone

9. Are you covered by a collective agreement? / Êtes-vous assujéti(e) à une convention collective? Yes / Oui No / Non

Union/Syndicat

Representative / Représentant

<p>To be completed for PART III (Labour Standards) COMPLAINTS À compléter pour plaintes relevant de la PARTIE III (Les normes du travail)</p>		<p>To be completed for PART II (Occupational Safety and Health) COMPLAINTS À compléter pour plaintes relevant de la PARTIE II (Sécurité et santé au travail)</p>	
<p>10. Status of employment (with employer indicated above) Statut d'emploi (avec l'employeur mentionné ci-dessus)</p> <p>Commenced / Débuté (date) _____</p> <p>Terminated / Terminé (date) _____</p> <p>By whom / Par qui: <input type="checkbox"/> self / soi-même <input type="checkbox"/> employer / employeur</p> <p>hrs per day / heures par jour @ \$ _____ per hour / par heure</p> <p>hrs per week / heures par semaine @ \$ _____ per week / par semaine</p> <p>other / autre _____</p>		<p>11. Type of Infraction / Genre d'infraction</p> <p>Hazard / Danger: Establishment/ determination of pay periods interfere with primary flight crew duties</p> <p>Worksite / Lieu de travail: ramp la. gate departures and arrivals</p> <p>Address / Adresse: Air Canada Operations</p>	
<p>12. Is there a safety and health committee/representative at work place? Existe-t-il un comité de sécurité et de santé/représentant au lieu de travail?</p> <p><input checked="" type="checkbox"/> Yes / Oui <input type="checkbox"/> No / Non</p> <p>Contact: Name / Nom _____</p> <p>Telephone / Téléphone _____</p>			

1740



COMPLAINT REGISTRATION

ENREGISTREMENT DE LA PLAINTE

Complaint under /
Plainte sous

Part II
Partie II

Part III
Partie III

Non-smokers' Health Act
Loi sur la santé des non-fumeurs

Fair Wages and Hours of Labour Act
Loi sur les justes salaires et les heures de travail

Other - specify
Autre - spécifier

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Union/Syndicat		Representative / Représentant	

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<p>10. Status of employment (with employer indicated above) Statut d'emploi (avec l'employeur susmentionné)</p> <p>Commenced / Débuté (date) _____</p> <p>Terminated / Terminé (date) _____</p> <p>By whom: / Par qui: <input type="checkbox"/> self / soi-même <input type="checkbox"/> employer / l'employeur</p> <p>_____ hrs per day / heures par jour @ \$ _____ per hour / par heure</p> <p>_____ hrs per week / heures par semaine @ \$ _____ per week / par semaine</p> <p>other / autre _____</p>		<p>11. Type of infraction / Genre d'infraction</p> <p>Hazard / Hasard Establishment/ determination of pay periods interfere with primary flight crew duties</p> <p>Worksite / Lieu de travail ramp ie. gate departures and arrivals</p> <p>Address / Adresse Air Canada Operations</p>	
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13. Complaint was discussed with: / La plainte a été discutée avec:

A. Employer / L'employeur

Referred to: / Référé à: **Air Canada Safety/Management/Board of Directors**

Name / Nom _____ Telephone / Téléphone _____

Yes / Oui No / Non Action taken / Action prise **unknown**

B. Union / Syndicat

Referred to: / Référé à: **ACPA's Tech Safety and Master Executive Council**

Name / Nom _____ Telephone / Téléphone _____

Yes / Oui No / Non Action taken / Action prise **unknown**

C. Safety and health committee / Comité de sécurité et de santé

Referred to: / Référé à: _____

Name / Nom _____ Telephone / Téléphone _____

Yes / Oui No / Non Action taken / Action prise **unknown**

1742

14. Was this complaint made to another government representative?
 Cette plainte a-t-elle été faite à un autre représentant gouvernemental? Yes / Oui No / Non *dates other than SEPT. 29/05*

Specify / Spécifier **Transport Canada, TSB of Canada, ICAO, (several Federal MP's and other parties)** Date **Sept. 29, 2005**

15. Statement of complaint / Exposé de la plainte
I make complaint that factors associated with determining "out-times" and "in-times" for the establishment of pay purposes for all in-flight crew, is an "in-flight" hazard that interferes with the safe operating practices of the carrier and is contrary to the requirements of the Aeronautics Act 7:41 1-3. The complaint is also made that my activism with respect to this matter as an employee of this carrier has resulted in "in-house" reprisals brought against myself with eventual termination of health and disability benefits and termination of employment.

To the best of my knowledge the establishment of an "out-time" for commencement of the pay period for this airline's in-flight crew, is accomplished in conjunction with the aircraft cabin door being closed and the aircraft park brake being released from the "set" position.

To the best of my knowledge the establishment of an "In-time" for determining the end of the pay period for this airline's in-flight crew, is accomplished in conjunction with the aircraft parkbrake being placed in the "set" position and the cabin door being opened.

The complaint is made that this method of defining the perimeters of the pay period is a significantly flawed process in that it provides an incentive for employees to alter the establishment of "out-times" and "in-times" of an "aircraft" by straying from conformity to standard operating procedures. The complainant relies on the continuation of rollback incidents at this carrier during the departure and arrival phases to support the complaint being made.

Specifically, with regard to establishing an "out-time" of an aircraft, once the aircraft cabin door is closed then an "out-time" will be determined via the flight crews action of releasing the aircraft parkbrake from it's "set" position. The complaint is made that this gives a flight crew an incentive to release the aircraft parkbrake prior to that point in time whereby the ramp crew are prepared and ready to commence aircraft push-back. A premature release of the parkbrake from the "set" position at this point would require the aircraft "brakes" being applied manually. This could lead to a situation whereby the aircraft is placed in a less than ideal configuration with an "un-commanded" rollback of the aircraft resulting.

Likewise, with regard to establishing an "In-time" of an aircraft, once the aircraft parkbrake is placed in the "set" position and the cabin door is opened, the "In-time" will determine the end of the pay period for all in-flight crew. In this scenario a premature opening of the aircraft cabin door (prior to both engine shutdown) via ramp personnel can lead to a situation whereby the flight crew is provided with an incentive to intentionally delay setting the aircraft parkbrake until such time as both engines are secure. Again, these actions could lead to a situation whereby the aircraft is placed in a less than ideal configuration with an "un-commanded" rollback of the aircraft resulting.

16. Complainant's name may be disclosed to employer (please initial)
 Le nom du (de la) plaignant(e) peut être révélé à l'employeur (s.v.p. initialer) Yes / Oui No / Non *K.G.*

17. How do you wish to be addressed in our correspondence?
 Comment peut-on vous appeler dans notre correspondance? Mr. / M Mrs. / Mme Miss / Mlle Ms

K. Gauthier

Signature of Complainant
 Signature du (de la) plaignant(e)

Receiving Officer
 Fonctionnaire qui a reçu la plainte

September 3, 2007

Date

OFFICE USE ONLY - À L'USAGE EXCLUSIF DU BUREAU

Complaint No. N° de la plainte	File No. (Regional) Dossier N° (Bureau extérieur)	File No. NHQ Dossier N° AC	Date received Date de la réception
Office receiving complaint Bureau qui a reçu la plainte	Forwarded to Transmis à	Date	Complaint rec'd by / Plainte reçue par <input type="checkbox"/> Mail / Courrier <input type="checkbox"/> Phone / Téléphone <input type="checkbox"/> Interview / Entrevue

1743

Sent Via: Registered Mail

Pearson Transport Canada Centre
5431 Flightline Drive
P.O. Box 6003
Mississauga, Ontario
L5P 1A1

Our File: SEP07PAXP01

September 12, 2007

Mr. Kevin Gauthier
12-53rd Street S
Wasaga Beach, ON
L9Z 1W8

Dear Mr. Gauthier,

RE: Canada Labour Code Part II

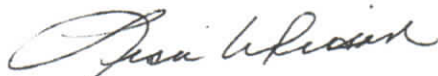
This will acknowledge receipt of your complaint dated September 03, 2007, which was forwarded to this office by Transport Canada Headquarters on September 04, 2007 against Air Canada.

In order to investigate this complaint on your behalf, we will be required to contact your former Employer and disclose your name to said employer. This is contrary to your notation in "box 16" of the "Complaint Registration Form".

To move forward with this complaint, we require your consent, in writing, to disclose your name because the details of the complaint must be provided to the other party in order for them to respond to the issues raised in the complaint. In addition, if the Internal Complaint Resolution Process as defined by Section 127.1, has been followed in accordance with the *Code* the nature of the complaint(s) and the identity of the complainants are commonly known to all parties.

Please contact the undersigned inspector, at the above address or by telephone, at (905) 621-6256 or via email at: wittonl@tc.gc.ca

Yours truly,



Lisa Witton
Civil Aviation Safety Inspector
Occupational Health and Safety – ON 1081
Commercial and Business Aviation
Ontario Region

Cc J Servant – Chief, Aviation Occupational Health & Safety



COMPLAINT REGISTRATION ENREGISTREMENT DE LA PLAINTE

Complaint under / Plainte sous: Part II / Partie II Part III / Partie III Non-smokers' Health Act / Loi sur la santé des non-fumeurs Fair Wages and Hours of Labour Act / Loi sur les justes salaires et les heures de travail

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Union/Syndicat _____ Representative / Représentant _____

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A. Employer / L'employeur

Referred to: / Référé à: **Air Canada Safety/Management/Board of Directors**

Name / Nom _____ Telephone / Téléphone _____

Action taken / Action prise: **unknown**

Yes / Oui No / Non

B. Union / Syndicat

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Name / Nom _____ Telephone / Téléphone _____

Action taken / Action prise: **unknown**

Yes / Oui No / Non

C. Safety and health committee / Comité de sécurité et de santé

Referred to: / Référé à: _____

Name / Nom _____ Telephone / Téléphone _____

Action taken / Action prise: **unknown**

Yes / Oui No / Non

26-0618 (0005-01)



RECEIVED TIME SEP. 3. 3:50PM PRINT TIME SEP. 3. 3:52PM

1786

-2-

14. Was this complaint made to another government representative?
 Cette plainte a-t-elle été faite à un autre représentant gouvernemental? Yes / Oui No / Non *dates other than Sept. 29/05*
- Specify / Spécifier **Transport Canada, TSB of Canada, ICAO, (several Federal MP's and other parties)** Date **Sept. 29, 2005**

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K. Gauthier
 Signature of Complainant
 Signature du (de la) plaignant(e)

September 3, 2007

Receiving Officer
 Fonctionnaire qui a reçu la plainte

Date

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RECEIVED TIME SEP. 3. 3:50PM
 1787

PRINT TIME SEP. 3. 3:52PM

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Yes / Oui No / Non

→ dates other than Sept. 29/05

Specify / Spécifier

Transport Canada, TSB of Canada, ICAO, (several Federal MP's and other parties)

Date Sept. 29, 2005

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Yes / Oui No / Non

K.Y.

17. How do you wish to be addressed in our correspondence?
Comment peut-on vous appeler dans notre correspondance?

Mr. / M Mrs. / Mme Miss / Mlle Ms

K. Yau

Signature of Complainant / Signature du (de la) plaignant(e)

Receiving Officer / Fonctionnaire qui a reçu la plainte

Sept. 13, 2007

Date

OFFICE USE ONLY - À L'USAGE EXCLUSIF DU BUREAU

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Pearson Transport Canada Centre
5431 Flightline Drive
Mississauga, Ontario
L5P 1A1

VIA REGISTERED MAIL

Our File: SEP07PAXP01

October 3, 2007

Mr. Kevin Gauthier
12-53rd Street S
Wasaga, Beach, ON
L9Z 1W8

Dear Mr. Gauthier,

SUBJECT: Canada Labour Code, Part II – Complaints Under s.133

This letter is further to your re-submitted complaint dated September 13, 2007, which was received in this office on September 13, 2007 against your former employer Air Canada. We have reviewed your complaint, and have determined that the Labour Program does not have jurisdiction to investigate your complaint, as the subject matter of your complaint falls within the purview of section 133 of the *Canada Labour Code*, Part II.

Please note that the *Code* has established a **time limit for you to register your complaint of 90 days** from the date on which you knew or in the Board's view you ought to have known, of the action or circumstances giving rise to your complaint. We therefore suggest that you immediately forward your complaint to the Canada Industrial Relations Board (CIRB), who has the power to investigate your complaint, unless you will be referring your complaint to arbitration or adjudication.

Canadian Industrial Relations Board
1 Front Street West
5th Floor East
Suite 5300
Toronto, Ont.
M5J 2X7

Canada

The Labour Program of Human Resources and Skills Development Canada, extended jurisdiction to Transport Canada-Civil Aviation, can, therefore, take no further action on your behalf.

Yours truly,



Lisa Witton
Civil Aviation Safety Inspector, Cabin Safety
Occupational Health and Safety – ON1081
Commercial & Business Aviation
Ontario Region

Cc: J Servant – Chief, Aviation Occupational Health & Safety
F Dehaye – CASI-OH&S, Transport Canada