

Canada Labour Code
Part II
Occupational Health and Safety

Canadian Union of Public Employees
applicant

and

Air Canada
employer

Decision No. 04-045
December 30, 2004

This case was decided by appeals officer Thomas Farrell.

For the applicant

Gerry McCann, C.U.P.E. representing (M. Halley, S.L. Strohan, K. Rideout, S. Austin-Tammaro, A. Blackwood, J. Flemmer)

For the employer

Margaret Bonham, Manager, Safety, Operations & Product Support, Air Canada

Health and Safety Officer

John Vincent, Health & Safety Officer, Transport Canada, Ottawa, Ontario.

- [1] On August 9, 2001 at Calgary International Airport, 2000 Airport Road, Calgary, Alberta, the scheduled flight attendants for Air Canada flight # 3088 Aircraft # 681 became aware of a log entry involving an electrical burning smell in the forward galley, which had been reported on the previous flight #3097 from London to Calgary.
- [2] Two of the flight attendants saw the aircraft maintenance engineer visually view the circuit breakers and galley lights however he did not physically check equipment. The engineer informed the flight attendants that there had been other reported occurrences involving the smell of smoke on board this aircraft.
- [3] The Pilot in Command informed the flight attendants that the engineer had done a thorough inspection and nothing was found. He requested that if at any time during the flight they smelled smoke, he was to be informed immediately. When the flight attendants requested

additional information with regard to procedures that would be taken in event of a recurrence of the smell of smoke, the response was vague and added additional concerns for the cabin crew.

- [4] Two of the flight attendants left the aircraft to contact their union representative in British Columbia, as they were unsure of their right to refuse dangerous work under the *Canada Labour Code*, Part II.
- [5] A representative from management informed the flight attendants that an Employee Occupational Health and Safety Representative was unavailable. The flight attendants then elected a spokesperson to represent them.
- [6] The In-flight Services Manager tried to notify an Occupational Health and Safety Officer from Transport Canada.
- [7] Each flight attendant advised a company representative that they were exercising their right to continue to refuse to work because they believed that a potential hazard still existed in the workplace. The flight attendants then returned to their assigned positions on board the aircraft.
- [8] The Pilot in Command, first Officer and the In-Charge Flight Attendant were all willing to operate flight # 3088.
- [9] Crew scheduling proceeded to obtain a replacement cabin crew to operate flight # 3088 but were unable to do so before the flight crew's duty day ended.
- [10] The Aircraft Maintenance Engineer stated that he began his inspection prior to the Captain, First Officer of flight attendants boarding the aircraft. He further stated that he had completed a thorough inspection of the aircraft and found no defects in the electrical systems and informed the captain that the aircraft was airworthy.
- [11] The Maintenance reports and the interviews provided to the Transport Canada Health and Safety Officer indicated that a thorough inspection had been conducted.
- [12] A previously reported incident on aircraft #681 had occurred in the back of the cabin and not in the forward galley as reported by the flight attendants in this circumstance.

Decision

- [13] In the matter of the appeal of the decision of 'no danger' made by Transport Canada Health and Safety Officer John Vincent on August 14, 2001 regarding the smell of electrical smoke in the forward galley on Flight # 3088, Aircraft 681 on August 9, 2001.

- [14] In my review of this file it became obvious that poor communications between the parties on board Air Canada flight #3088 and the maintenance personnel involved resulted in the cabin crew's decision to exercise their "right to refuse".
- [15] The fact that a thorough inspection had been conducted prior to any crew members coming on board should have been shared with the cabin crew. Had a trained employee health and safety representative been available to assist the cabin crew the flow of information related to their concern would have been improved. I strongly recommend that Air Canada develop a process to ensure that all information related to the resolution of reported health and safety concerns be shared with all members of the flight crew.
- [16] I have reviewed the information provided by the applicants as well as the information provided by the employer. Based on this information I have concluded that Transport Canada Health and Safety Officer Vincent's decision of no danger was correct and I therefore confirm the decision.

Thomas Farrell
Appeals Officer

Summary of Decision

Decision No.: 04-045

Applicant: C.U.P.E.

Employer: Air Canada

Key Words: Refusal to work, appeal.

Provisions: *Code* 129(7)
Regulations

Summary:

The applicants appealed a decision of no danger made under subsection 129 (7) of the *Canada Labour Code* (the *Code*), Part II. Two of the flight attendants saw the aircraft maintenance engineer visually view the circuit breakers and galley lights however he did not physically check equipment. The engineer informed the flight attendants that there had been other reported occurrences involving the smell of smoke on board this aircraft.

I have reviewed the information provided by the applicants as well as the information provided by the employer. Based on this information I have concluded that Transport Canada Health and Safety Officer Vincent's decision of no danger was correct and I therefore confirm the decision.