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AIR LAW

AIR PASSENGER PROTECTION

Simplified action seeking statutory compensation pursuant to *Air Passenger Protection Regulations*, SOR/2019-150 (Regulations), s. 19(2) — Claim arising from air travel booked by plaintiff from Halifax, Nova Scotia to Budapest, Hungary with Air Canada — Defendant notified plaintiff about change in part of itinerary — Notice from Air Canada advised that itinerary change due to “Flight Schedule Change”, not to circumstances beyond its control — Plaintiff deposed that he attempted to reach Air Canada Customer Relations to seek different alternate travel arrangements without success — Plaintiff later cancelled his trip, obtained refund for cost of ticket — Requested compensation from defendant in amount of \$400 pursuant to Regulations, s. 19(2) — Defendant refusing to pay compensation, stating that requested compensation not applying because plaintiff informed of schedule change at least 15 days prior to flight departure — Plaintiff submitted that as written, s. 19(2) does not import temporal element, fact that he was advised of change in itinerary more than 14 days before planned travel not changing defendant’s obligation to pay compensation in addition to refund of ticket price — For its part, defendant submitted that s. 19(2) must be read with condition precedents set out in Regulations, ss. 12(3)(c),(d) — Argued that interpretation advanced by plaintiff would lead to absurd result whereby a carrier, after refunding ticket price in circumstances where change in travel itinerary made more than 14 days before travel, would also be liable to pay compensation — Whether compensation owed under s. 19(2) if air carrier provided passenger with notice of cancellation more than 14 days prior to originally scheduled departure time of cancelled flight and passenger opted for refund pursuant to Regulations, s. 17(2) — Whether s. 19(2) entitling plaintiff to compensation only when cancellation of flight communicated to plaintiff 14 days or less prior to originally scheduled departure time of flight — Language of s. 19(2), when read in conjunction with s. 12(3), should be interpreted in manner proposed by defendant — S. 19(2) saying nothing about notice within 14 days, or within any time period — No apparent difference between French, English versions of Regulations associated with interpretation of s. 19(2), with exception of s. 12(3) — Structure of s. 12(3) supporting submissions of defendant, that ss. 12(3)(c),(d) should be read together — Interpretation proposed by plaintiff would mean that in any case governed by s. 19(2), when an itinerary was interrupted for means within carrier’s control and alternate travel arrangements not accepted, carrier would have to pay compensation — This interpretation punitive, leading to absurd result — Regulations referenced by Federal Court of Appeal in *International Air Transport Association v. Canadian Transportation Agency*, 2022 FCA 211 as being similar to consumer protection legislation — That type of legislation should be interpreted “generously in favour of consumers” — However, such approach should not result in punishment of service provider — Action dismissed.

LUKÁCS V. AIR CANADA ROUGE LP (T-464-22, 2023 FC 1358, Heneghan J., reasons for judgment dated October 12, 2023, 21 pp.)