

Martine De Serres
Counsel
Regulatory and International

Air Canada Center
P.O. Box 7000, Airport Station
Dorval, Quebec H4Y 1J2
Canada

Direct: (514) 422-5883
Facsimile: (514) 422-5839

June 2nd, 2009

BY FACSIMILE

The Secretary
CANADIAN TRANSPORTATION AGENCY
Complaints and Investigation Division
Air & Marine Investigations Directorate
15, Eddy Street, 18th Floor,
Hull/Ottawa, Canada
K1A 0N9

Attention: Ms. Pauline Leclerc

**Re: Complaint by Mr. Lloyd Alter against Air Canada
CTA File No. 08-50589 – O/F: 4402-0558**

Dear Ms. Leclerc,

We are writing in response to your letter of May 19, 2009, regarding the above-captioned file. The Agency requested that we respond within 10 working days of receipt of your letter that is, by June 2, 2009.

Air Canada notes that Mr. Alter submitted additional comments in an email to the Agency dated June 1, 2009. It is understood that Air Canada will be given additional time to comment on these additional comments should the Agency perceive them as being of relevance to the outcome of this file.

In his letter on which the Agency has given Air Canada the opportunity to comment, Mr. Alter alleges that his bag received no special handling because it was placed on the carousel among conventional luggage, and that the bicycle was contained in a baggage within the weight and size allowance.

1. General handling procedures

Assuming Mr. Alter's travel was subject to Air Canada's tariffs, (as stated below, evidence points to the contrary), his bicycle should have been treated in the same manner as other bicycles and in accordance with Air Canada policy. As other bicycles, it should

have been placed on the oversized and fragile carousel (for those airports that have such belts) and been transported by hand to the correct flight. At arrival, it should have been delivered to the oversize/fragile area.

At most airports, conventional baggage is placed on a baggage carousel that arrives in the baggage room, where it is scanned and automatically dispatched, through a complex series of belts and shoots, to the proper flight. The details of this system vary from one airport to the next, but in many airports, the baggage is scanned and then kicked off the main belt, onto the proper belt leading to the correct flight. Our concern with bicycles in a soft-padded case like Mr. Alter's is that the boot kicking the baggage off the main belt may damage the bicycle wheel, or another part of the bicycle.

Potential damage to the wheel is one of the reasons for which Air Canada's tariffs consider bicycles as fragile items, and requires that they be placed in a hard-shell container. For example, rule 195 (L)(1)(B) states:

"B) CONDITIONS OF ACCEPTANCE
BICYCLES MUST HAVE THE HANDLEBARS FIXED SIDEWAYS
AND THE PEDALS REMOVED, AND PLACED IN A RIGID
AND/OR HARD SHELL CONTAINER SPECIFICALLY
DESIGNED FOR SHIPPING."

As per this rule, our agents are instructed not to accept bicycles contained in a soft-shell container such as Mr. Alter's. Under applicable international conventions, Air Canada may be liable for damages caused to a bicycle even if it is not placed in a "rigid and/or hard-shell container specifically designed for shipping" in contravention with applicable tariffs.

Because of the potential damage that may be caused to bicycles during transportation and as a matter of precaution, Air Canada's policy regarding bicycles is that they must all be handled with special care, as all oversized and/or fragile items are, regardless of whether they are contained in a rigid or hard-shell container. As a matter of consistency and to enhance compliance with policy, it is important that Air Canada has one policy applicable to all bicycles. It would not be operationally feasible to have differing policies, or, worse, for our agents to have the discretion to determine, on a case by case basis, which bicycles should be treated as oversized and/or fragile items and which should be treated as conventional baggage, depending on their size, type, making, and packaging,

The above provides general comments on the reasons for which Air Canada has a handling fee for bicycle, and why this fee must be applied to all bicycles. The comments below specifically pertain to the case at hand.

2. Specific comments on the case at hand

Mr. Alter states "On my return flight to Terminal 3 on American Airlines, it hit the carousel in the midst of conventional luggage, so Pearson Airport luggage handlers appear to have treated it like conventional luggage." Air Canada does not handle American Airlines' luggage at Pearson Airport. It is possible that American Airlines chooses to treat bicycles as conventional luggage. It appears that American Airlines does

accept bicycles that are not contained in a hard-shell container. In any case, Air Canada did not check-in Mr. Alter in Boston for his return flight to Toronto, and could not have identified the baggage as requiring special handling.

Moreover, Air Canada notes that from American Airlines' bicycle policy stated in its tariffs found at Tab 3 of our previous submission dated February 11, 2009, it appears that Mr. Alter should have been (and indeed, may have been) assessed a \$125 handling fee for the handling of his bicycle.

Regarding the departing flight, according to Part 5 of his Air Travel Complaint Form submitted to the Agency, Mr. Alter purchased a United Air Lines ticket, for travel on flight number UA8536, operated by Air Canada on a code share basis with United Air Lines, between Toronto and Boston. Therefore Mr. Alter did not have a contractual relationship with Air Canada. Air Canada's tariffs were not applicable to him and Mr. Alter should have been charged United Air Lines' \$175 handling fee for the handling of his bicycle.

3. Irrelevance of the facts alleged

Air Canada respectfully submits that the question of why Mr. Alter's bicycle received no special treatment from the baggage handlers is irrelevant here. It was clear from the onset of this file that the Agency has chosen to exercise its jurisdiction even if Mr. Alter's complaint is not related to any specific event that may have taken place in relation to Air Canada's tariffs, but rather that it is exercising its jurisdiction based on the reasonable or discriminatory aspect of Air Canada's tariffs.

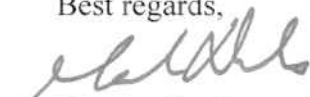
The specifics of an event are only relevant if, for example, a complaint is based on the allegation that Air Canada wrongly applied its tariffs, when applicable. Here, from Part 5 of his Air Travel Complaint Form to the Agency, it is clear that Air Canada's tariffs were inapplicable to the events alleged by Mr. Alter.

4. Conclusion

As explained in our previous submission dated February 11, 2009, the special handling procedure is the reason for which a handling fee is applied for the transportation of bicycles. Air Canada's fee is lower than the industry standard for such objects, and it is clearly not unduly discriminatory. Air Canada respectfully submits that Mr. Alter's complaint should be dismissed.

We trust the above is satisfactory. Please do not hesitate to contact us should you require further information.

Best regards,



Martine De Serres

cc: Lloyd Alter