



FEDERAL COURT OF APPEAL

WESTJET

Court File No.: **A-267-22**

FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE	
FILED	12-DEC-2022
D Priscilla Lam	
VANCOUVER, BC	1

APPELLANT

AND:

OWEN LAREAU

RESPONDENT

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Vancouver, BC.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

December 12, 2022

**ORIGINAL SIGNED BY
PRISCILLA LAM**

Issued by: _____ **A SIGNÉ L'ORIGINAL**

Address of local office: _____

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Vancouver, B.C. V7Y 1B6**

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Counsel for the respondent, Owen Lareau

Canadian Transportation Agency
50 O'Connor Street
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APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the order of the Canadian Transportation Agency (the "Agency") dated July 8, 2022, by which WestJet was ordered to pay to the respondent Owen Lareau compensation of \$1,000 CAD in respect of a flight cancellation, pursuant to paragraph 12(3)(d) and subparagraph 19(1)(a)(iii) of the *Air Passenger Protection Regulations*, SOR/2019-150 ("APPRs"), and Rule 95(C) of WestJet's tariff.

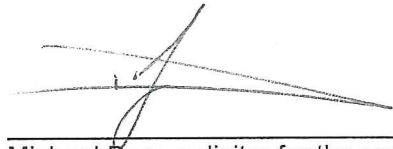
THE APPELLANT ASKS that:

- (a) the appeal be allowed and Mr. Lareau's application to the Agency (Case No. 22-03571) be dismissed; or
- (b) in the alternative, the appeal be allowed and the matter remitted to the Agency for reconsideration in accordance with this Court's reasons; and
- (c) costs of the appeal be awarded to WestJet, unless otherwise agreed by the parties.

THE GROUNDS OF APPEAL are as follows:

- (a) The Agency erred in interpreting the phrase "required for safety purposes" in the APPRs by reading in a requirement that the event causing the disruption could not have been foreseen or prevented by a prudent and diligent carrier (that the event was "unavoidable despite proper planning");
- (b) The Agency erred in its interpretation of paragraph 11 of the APPRs by conflating the question of whether the disruption was "required for safety purposes" with whether it was outside the carrier's control, and, as a result, erroneously concluded that paragraph 12 of the APPRs applied rather than paragraph 11;
- (c) The Agency erred in law by fettering its discretion in its reliance on Decision 122-C-A-2021 ("*APPR Interpretive Decision*"), treating the *APPR Interpretive Decision* as binding with respect to the application of the APPRs where a disruption was caused by a crew shortage; and
- (d) The Agency erred in law by reversing the onus of proof, requiring WestJet to prove that the cancellation was required for safety purposes and/or that it could not have been prevented.

December 12, 2022



Michael Dery, solicitor for the appellant

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I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the _____

day of DEC 12 2022 A.D. 20____

Dated this _____ day of DEC 12 2022 20____



**PRISCILLA LAM
REGISTRY OFFICER
AGENT DU GREFFE**