

CANADA LABOUR CODE
PART II
OCCUPATIONAL SAFETY AND HEALTH

Review under section 146 of the Canada Labour Code, Part II
of a direction issued by a safety officer

Applicant: Air Canada
Montreal International Airport
Montreal, Quebec
Represented by: Louise-HJIPne SJnJcal
Lawyer

Respondent: Canadian Union of Public Employees
Represented by: Reynoud Wijtman
Co-Chairman,
Safety and Health Committee

Mis en Cause: Pierre Doucet
Safety Officer
Transport Canada, Aviation

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

On July 6, 1994, Safety Officer Pierre Doucet issued a direction (see Annex) to Air Canada under paragraphs 145(2)(a) and (b) of the Canada Labour Code, Part II. On July 7, 1994, further to a request by Air Canada for a review of this direction, I boarded a DC-9 airplane and inspected the seats at issue in the direction being contested. Afterwards the parties had a chance to present their side of the case.

Decision

Based on the findings of my enquiry and the points of law which will be explained subsequently in the reasons for my decision, I conclude that it is not dangerous to use the front and rear seats for flight attendants on DC-9 airplanes.

Therefore, I HEREBY RESCIND the direction issued to Air Canada pursuant to paragraphs 145 (2)(a) and (b) of the Canada Labour Code, Part II, on July 6, 1994 by Safety Officer Pierre Doucet.

Decision issued at Montreal, Quebec, this 7th day of July 1994.

Serge Cadieux
Regional Safety Officer

IN THE MATTER OF THE CANADA LABOUR CODE
PART II - OCCUPATIONAL SAFETY AND HEALTH

DIRECTION TO EMPLOYER UNDER SUBSECTIONS 145(2)(a) and (b)

On April 13, 1994, the undersigned conducted an investigation at the workplace - in this case a DC-9 aircraft - operated by Air Canada, being an employer subject to the Canada Labour Code, Part II, at P.O. Box 9000, St. Laurent, Quebec, H4Y 1C2, the said workplace being sometimes known as the Montreal International Airport, Dorval.

The said officer considers that a situation existing in the workplace constitutes a danger to an employee while at work:

Double front seat for flight attendants aboard DC-9 aircraft

As of this day, this seat is to be used by only one flight attendant who must occupy, when facing backwards, the left side of the seat, owing to the fact that the seat is not large enough to be used by two flight attendants. In the event of an accident or any incident where the aircraft makes a sharp dive (hard landing), the person who has only one buttock on the seat, could suffer serious consequences. Moreover, in the event of a plane crash, or any incident involving a sideways jolt on acceleration or deceleration, or in light-, medium- or high-turbulence conditions, a flight attendant could bump his or her head against the door.

Double rear seat for flight attendants aboard DC-9 aircraft

Two flight attendants are not allowed to sit in the rear seat if, because of their respective sizes, one of them would be unable to lean back safely in his seat. In the event of an accident or any incident involving a sideways jolt on acceleration or deceleration, or in light-, medium- or high-turbulence conditions, a flight attendant sitting in a contorted position could suffer serious consequences. Furthermore, if the physical constitution or size of the flight attendants does allow them to sit on the rear seat, there is still the risk of head injury, owing to the absence of cushioned surfaces on the side partitions adjacent to these seats.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(2)(a) of the Canada Labour Code, Part II, to immediately protect any person from the danger.

You are HEREBY FURTHER DIRECTED, pursuant to paragraph 145(2)(b) of the Canada Labour Code, Part II, not to use these seats for flight attendants until this direction has been complied with.

Issued at Dorval, this 6th day of July 1944.

Applicant: Air Canada, Dorval, Montreal

Respondent: Canadian Union of Public Employees

A safety officer from Transport Canada issued a direction to Air Canada prohibiting the use of the seats for airflight attendants aboard DC-9 aircrafts. A summary inquiry has been led in this case. It has been demonstrated that the said seats are uncomfortable when two airflight attendants have to simultaneously be seated in one.

The Regional Safety Officer boarded a DC-9 and sat on these particular seats. He was of the opinion that although these seats are not comfortable, they do not, as interpreted by the tribunals, constitute a real and immediate danger for airflight attendants that use them. Consequently, the Regional Safety Officer rescinded the direction.