

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 1540 – Langley Flying School Inc.

1. Introduction

The Complainant, an international student, paid the Institution over \$50,000 in May 2020 in respect of a flight training program [Program].

Because of COVID-19, the Complainant attended the initial part of the Program via distance education from China.

The Complainant withdrew from the Program on October 2, 2022, less than one month after his arrival to Canada, without having attended the Program in Canada.

The Complainant filed a complaint against the Institution on December 29, 2022 [Complaint].

The Complainant is seeking a full refund of tuition on the basis that he was misled in respect of the information provided by the Institution about the Program.

The Complainant exhausted the Institution's dispute resolution process [DRP] prior to filing this Complaint.

For the reasons outlined below, I find the Institution misled the Complainant regarding a significant aspect of the Program and, accordingly, approve the claim.

2. Statutory Scheme

Section 23(1) of the *Private Training Act* [Act] provides that a student may file a claim against the Student Tuition Protection Fund [Fund] on the ground that a certified institution misled the student regarding any significant aspect of an approved program of instruction in which that student was enrolled. Claims are filed with the Trustee, being the minister or the person to whom the minister has delegated the relevant powers or duties.

Claims must be filed no later than one year after the student completed or was dismissed or withdrew from the program and only after the student has exhausted the institution's dispute resolution process.

Following receipt of the complaint, the process is as follows:

Claim the student was misled		
Who	What	When
Trustee	Gives a copy of the claim to the institution	As soon as practicable
Institution	May respond to the claim [Response]	Within 15 days of receiving a copy of the claim from the Trustee

Trustee	Gives the Response from the institution, if any, to the student	Within 15 days of receiving the Response from the institution
Student	May reply to the Response from the institution [Reply]	Within 15 days of receiving the Response from the Trustee
Trustee	Must give the Reply from the student, if any, to the institution	Within 15 days of receiving the Reply from the student
Trustee	Adjudicates the claim to determine whether any refund should be issued, and provides written reasons to the student, the institution, and the registrar.	

If a claim is approved, the Trustee may authorize payment from the Fund of all or a portion of the tuition paid to the institution by or on behalf of the student. Section 25(4) of the *Fees and Student Tuition Protection Fund Regulation* requires that payments from the Fund be directed first to the government if all or a portion of the tuition was paid using funds from a provincial or federal student assistance program, and then to the claimant.

3. Program Information

Program:	Professional Training program / Pilot and Job Guarantee Program includes the following: <ul style="list-style-type: none"> • Private Pilot Licence • Commercial Pilot Licence • Instructor Rating • Multi-Engine Rating • Instrument Rating • Night Rating
Withdrawal date:	October 25, 2022
Amount paid by Complainant:	\$56,608 (tuition of \$51,988; \$500 application fee; \$1,120 tuition for ground school; \$3,000 agent fee)
Tuition paid by Complainant (other than PPL):	\$51,988

4. Issues

The following issue arises for consideration: Was the Complainant misled in relation to the manner in which the Institution operates and, specifically, the Institution's dealings and communication with the Complainant regarding the Program?

5. Chronology

March 12, 2020	Private Pilot Online Application Form
March 28-June 27, 2020	Complainant attends PPL ground school by distance education (from China)
April 12, 2020	Canada Pilot Program Application Form for Pilot and Job Guarantee program
April 30, 2020	Institution issues Letter of Acceptance for CPL, Night Rating, Multi Engine Rating, Instrument Rating, and Instructor Rating
May 2, 2020	Conditional Acceptance to the Professional Pilot Training program

May 19, 2020	Payment of \$1,120 tuition for PPL (ground school)
May 21, 2020	Receipt for Tuition Fee (\$51,988) for First Academic Year (PPL)
May 21, 2020	Invoice for Tuition Fees PPL – Ground school (\$1,120)
September 3, 2020	Request to Defer Admission to Summer 2021
September 2022	Complainant's arrival to Canada
October 5, 2022	Complainant withdraws from Program
November 4, 2022	Complainant initiates DRP and submits complaint to Institution
November 14, 2022	Institution issues decision
December 29, 2022	Complainant files Complaint

6. Analysis

The Institution provided the Complainant various documents describing the Program and, in April 2020, after receipt of payment of over \$50,000, issued a Letter of Acceptance.

The Program is comprised of the following components:

- Private Pilot Licence [**PPL**]
- Commercial Pilot Licence [**CPL**]
- Instructor Rating
- Multi-Engine Rating
- Instrument Rating
- Night Rating

Because of COVID 19, the Complainant delayed his arrival to Canada to September 2022. The Complainant attended part of the ground school portion of the PPL by distance education from China.

The Complainant never completed the PPL and does not hold a Private Pilot Licence. Holding a Private Pilot Licence is an admission requirement for the CPL and other flight training programs which are part of the Program.

On the Complainant's arrival to Canada, the parties discussed the terms of the Program and considered a business association. As they did not come to an agreement, the Complainant did not enter into an enrolment contract for the provision of the Program. In October 2022, less than one month after his arrival, the Complainant withdrew from the Program without having attended any courses in Canada.

The Complainant refused to complete the Institution's Withdrawal Application Form and asked for a refund of all fees. The Institution denied the request.

The Institution denies it misled the Complainant with respect to its representations, or at all. The Institution submits that, although the Complainant notified the Institution of his withdrawal, he never submitted the Withdrawal Application Form as required, "which resulted that all the internal procedures in approving his withdrawal are unable to carry out". In its Response, the Institution adds: "If [the Complainant] was cooperative with the School's request in late 2022, he would not only have received the refund money, but also additional costs would be avoided to occur by the School and by [the Complainant] itself". The Institution

offers an unspecified refund to the Complainant after applying various deductions (such as legal fees and car rental).

The Institution argues that most of the evidence submitted by the Complainant in support of the Complaint is not admissible. As I have not considered that evidence in my decision, I do not have to make a determination on the issue of admissibility.

7. Decision

For the reasons outlined below, I find the Institution misled the Complainant in relation to the manner in which the Institution operates. Specifically, the Institution enrolled the Complainant in the CPL Program and other programs without the Complainant having met the admission requirement of holding a PPL, and accepted payment without having first provided a copy of the Tuition Refund Policy. Accordingly, I approve the claim.

The Institution is regulated under the Act. The Act is consumer protection legislation that recognizes the power imbalance between a student and an institution and establishes compliance standards institutions must comply with. This includes standards related to enrolment contracts, admission requirements, Tuition Refund Policy, and Student Withdrawal Policy.

The Institution's conduct demonstrates a complete disregard for compliance with minimum standards meant to afford protection to students, including the Complainant. Specifically:

- The Institution accepted tuition and related fees without having first provided the Complainant a copy of the Institution's Tuition Refund Policy (*Private Training Regulation [PTR] 29*).
- The Institution enrolled the Complainant in programs without the Complainant having met the admission requirement of holding a PPL (PTR 18(2)(a)).
- The Request for Deferred Admission signed by the Complainant on September 3, 2020, includes the following statement: "Students may not attend another post secondary institution or flying training institution during the deferral period. Students who do not comply will need to re-apply for admission and will forfeit any paid deposits". This information is false. The Institution must comply with the minimum Tuition Refund Policy standards of the PTR.
- The requirement to submit the Withdrawal Form developed by the Institution contravenes PTR 46 which provides the Complainant can simply deliver a written notice to the Institution.

The Institution's non-compliance with core standards negatively impacted the Complainant and directly contributed to the circumstances that gave rise to the Complaint. In other words, had the Institution

operated in compliance, it would have provided a copy of a compliant Tuition Refund Policy before accepting payment and, more importantly, would not have admitted the Complainant in programs for which he does not meet the admission requirements.

I find the Institution misled the Complainant regarding a significant aspect of the Program and, accordingly, the Complainant is entitled to a refund of all tuition paid in respect of the Program.

As Trustee, in accordance with section 25 of the Act, I authorize payment of \$51,988 from the Fund. The payment from the Fund will be directed in the following order: first, to the government, if all or a portion of the tuition was paid using funds from a provincial or federal student assistance program, and second, to the Complainant.

The Institution is required to repay the total amount of \$51,988 to the Fund (Act, s.27).

Decisions of the Trustee are final and conclusive and are not subject to appeal (Act, s.24(5)).

November 24, 2023

A handwritten signature in black ink, appearing to read "Anthony Loughran", with a long horizontal flourish extending to the right.

Tony Loughran
Trustee, Student Tuition Protection Fund