

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 3539 – Canadian Aviation College

1. Introduction

The Complainant was enrolled in the Commercial Pilot Licence [CPL] program [Program] before he withdrew on July 6, 2023.

The Complainant filed a complaint against the Institution on October 20, 2023 [Complaint].

The issue complained about is the Institution's failure to provide 106 hours of C172 Solo Training/Time Building [Solo Training].

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.
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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:	Commercial Pilot Licence [CPL]
Start date:	March 2021
Withdrawal date:	July 6, 2023
Total charged:	\$35,275
Tuition:	\$32,010
Incidental Fees:	
Admin Fee:	\$100
Authorized Person Fee:	\$75
Books and Material Fees:	\$680
Pre-Solo Test of Air Regulations and Radio	n/a
ALPD Examination:	n/a
Written Exam:	\$105
Commercial Pilot Flight Test (not include aircraft rental)	\$350
Transport Canada Commercial Pilot Licence Fee:	\$55
CPL Kit:	\$180
PPL Kit	n/a
Hourly Rates for Additional time when required:	
Single Flight	\$300
Dual Flight	\$300
Instructor Flight	\$95
Amount paid to date for Private Pilot License program and Program	\$ 79,141.75
Amount of tuition paid for CPL program to date:	\$ 32,010

4. Issues

The following issue arises for consideration: Did the Institution mislead the Complainant by failing to provide 106 hours of Solo Training listed in the enrolment contract?

5. Chronology

September 2, 2019	Enrolment contract Private Pilot License program
September 2, 2019	Enrolment contract Program
July 5, 2020	Enrolment contract Private Pilot License program
July 5, 2020	Enrolment contract Program
May 19 (year not listed on Notice)	Institution issues Student Attendance Notice
February 2023	Complainant's request to book Solo Training denied
July 6, 2023	Complainant withdraws from Program
July 28, 2023	Complainant submits complaint to Institution and initiates DRP
August 4, 2023	Institution issues decision [Decision 1]
August 11, 2023	Complainant not satisfied with Decision 1, says it does not address complaint related to the provision of Solo Training
August 14, 2023	Complainant confirms he paid \$4,476.75 and requests response to his July 28, 2023 complaint in respect of provision of Solo Training
August 28, 2023	Complainant follows up
October 16, 2023	Institution issues decision [Decision 2]

6. Analysis

After completing the Private Pilot License program at the Institution, the Complainant enrolled in the Program.

The Complainant completed 30.5 hours of the 106 hours of Solo Training listed in the enrolment contract for the Program. This fact is not disputed by the parties.

The Complainant also took additional training which is not included in the cost of the Program.

In February 2023, the Complainant contacted the Institution to book hours of Solo Training. At that point, he had completed 30.5 of the listed 106 hours. He submits: "To my surprise, my request was denied, citing a negative balance in my school account, and I was told that further payments were necessary to continue".

On July 6, 2023, the Complainant withdrew from the Program and initiated the DRP by submitting a complaint to the Institution on July 28, 2023.

In his July 28, 2023 complaint to the Institution, the Complainant asks the Institution to provide the remaining hours of Solo Training; says he is owed \$47.40; and disputes he owes \$4,536.75 in respect of additional training. As a settlement proposal, the Complainant offers to pay \$4,536.75 if the Institution agrees to provide the remaining hours of Solo Training or, failing this, asks to discuss his complaint with the Institution.

In Decision 1, the Institution says that, since the Complainant has been enrolled at the Institution, he has, on 226 occasions, cancelled flight bookings: - "some are because of weather, but a lot are cancelled by your personal reason". The Institution adds that the Complainant must pay \$4,536.75 to obtain his Private Training Record. The Institution does not address the main issue raised by the Complainant which was the provision of remaining Solo Training hours.

The Complainant ultimately paid the Institution and asked it respond to his request to book the Solo Training hours.

In Decision 2, the Institution confirms that, based on the Institution's Tuition Refund Policy, no refund is due following the Complainants' withdrawal, and submits the following:

Regarding to the solo hours in your DRP, you haven't completed 75.7 solo flights within your contract. However, as our records show, the total training bookings you have cancelled during the last two years are 226 times. We have traced you to complete all your training, while you had a lot of excuses not showing in our school. School has actual training plan for you but unfortunately you didn't show up. You took your solo flights in another school since this April without noticing or withdrawn from CAC. I found out the truth till August.

The Complainant submitted evidence that the flights he had booked had been cancelled approximately 150 times between March 26, 2021, and April 2, 2023. Reasons cited in the record titled "Flight Cancelled" are "instructor," "weather", "student", "no reason", "Aircraft Maintenance Organization (AMO)" and "Reason 8". I understand that the reference to student means the Complainant cancelled flights he had booked.

In its Response, the Institution says the Complainant did not regularly attend the Program and submitted a record dated May 19 (no year) which reads as follows:

We are concerned about your attendance and tuition payments. It has been an extended amount of time since you have topped up your account and participated in your flight training at CAC. I have attached the attendance policy for your review. Unfortunately, ff we do not hear from you or receive tuition payments, the next step will be dismissal.

The Attendance Policy provides that attendance is mandatory and poor attendance is less than 95% attendance of all scheduled sessions within a 2-month period. "Any observed trends of flagrant cancellations may result in training suspension or termination".

7. Decision

For the reasons outlined below, I find the Institution misled the Complainant by failing to provide Solo Training hours listed in the enrolment contract. Accordingly, I approve the claim.

The enrolment contract includes the provision of 106 hours of Solo Training and the Complainant completed roughly a third.

While the Complainant may not have been diligent in booking Solo Training hours prior to February 2023, I find that once the Complainant brought the issue of the outstanding hours to the Institution's attention, the Institution was not upfront with the Complainant and cited various and shifting reasons for refusing to provide the hours. First it demanded payment earmarked for other training, then it referred to the Complainant's poor attendance and finally, following the Complainant's withdrawal, it applied the Tuition Refund Policy.

After the Complainant paid, the Institution referred to the Complainant's poor attendance as a reason to deny the Solo Training hours. I find the onus is on the Institution to clearly communicate the repercussions of poor attendance and, in this case, the Institution failed to do so. It was unreasonable for the Institution to rely on a general notice to the Complainant, with no follow-up, as a basis to deny the provision of Solo Training hours.

Further, the Institution cannot simply apply the Tuition Refund Policy and assert that no refund is owed after having repeatedly denied the provision of Solo Training hours.

For these reasons I accept the claim and order a tuition refund of \$22,650. I based my calculation on the cost for a single flight (\$300) listed in the enrolment contract.

As Trustee, I authorize payment of \$22,650 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 (Act 25).

The Institution is required to repay the total amount of \$22,650 to the Fund (Act 27).

This decision is final. The Trustee does not have authority to re-open or reconsider the decision and there is no appeal under the Act. Parties may wish to seek legal advice regarding a judicial review by the BC Supreme Court.

Date: March 18, 2024



Tony Loughran
Trustee, Student Tuition Protection Fund