



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 22nd day of November, 2022

Complaint of

Wojciech Koch

v.

Swoop

Docket DOT-OST-2020-0148

Served November 22, 2022

ORDER OF DISMISSAL

On August 19, 2020, Wojciech Koch filed a formal complaint against Swoop. Mr. Koch alleges that Swoop violated 49 U.S.C. § 41712, the statutory prohibition against unfair and deceptive practices, by failing to provide a refund after cancelling his flight. We dismiss this complaint for the reasons set forth in this order pursuant to 14 CFR § 302.406(a)(2).¹

Complaint and Answer

On August 19, 2020, Mr. Koch filed a formal complaint with the U.S. Department of Transportation (Department or DOT). Mr. Koch states that on February 13, 2020, he purchased from Swoop two tickets for roundtrip flights from Winnipeg James Armstrong Richardson International Airport (YWG) to Harry Reid International Airport (LAS), departing on March 20, 2020 and returning on March 27, 2020, for a total of CAD \$822.14. Mr. Koch asserts that on March 14, 2020, he received notice that his flights were cancelled. Mr. Koch asserts that he contacted Swoop and demanded a refund. Mr. Koch alleges that Swoop denied his request for a refund and offered him a voucher/credit.

Swoop filed its Answer to Mr. Koch's complaint on October, 2020. Swoop asserts that Mr. Koch is not entitled to a refund under Swoop's policy because Mr. Koch's flights between YWG and LAS were not cancelled. Swoop states that on March 14, 2020, Mr. Koch cancelled the non-

¹ 14 CFR § 302.404(a)(2) states that one of the options available to the Assistant General Counsel is to "[i]ssue an order dismissing the complaint in whole or in part, stating the reasons for such dismissal."

refundable tickets for both the outbound and inbound flights and that Swoop provided him Travel Bank credit for CAD \$822.14. Swoop adds that in mid-September 2020, it provided Mr. Koch a refund as a gesture of goodwill.

DOT Enforcement Action against Swoop

On November 22, 2022, the Department's Office of Aviation Consumer Protection (OACP) entered into a consent order with Swoop, based on a finding that Swoop violated Section 41712 and 14 CFR § 259.5 by failing to provide timely refunds for flights to, from, or within the United States that were cancelled or significantly changed by Swoop.² Pursuant to that order, Swoop agreed to the assessment of civil penalties and to cease and desist from future violations.³

Decision

While we have taken enforcement action against Swoop in a separate matter, we dismiss this complaint for lack of sufficient evidence in the record that Swoop cancelled the flights at issue and committed a violation of U.S. law with respect to Mr. Koch.

ACCORDINGLY, we dismiss the Complaint filed in Dockets DOT-OST-2020-0148 with prejudice.

This order is issued under authority assigned in 14 CFR § 302.406(a)(2) and shall be effective as the final action of the Department within 30 days after service. A copy will be served on Mr. Koch.

BY:

BLANE WORKIE
Assistant General Counsel
Office of Aviation Consumer Protection

An electronic version of this document is available at www.regulations.gov.

² DOT Order 2022-11-13 at dockets OST-2022-0001 and OST-2020-0152, available at www.regulation.gov.

³ See, e.g., DOT Order 2021-6-11, Docket DOT-OST-2020-0053, available at www.regulations.gov (dismissing formal complaint for lack of evidence that the complainant purchased a flight that had been cancelled by the carrier).