



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

Issued by the Department of Transportation
on the 11 th day of January 2017

Third Party Complaint of

Kevin Crowell

v.

American Airlines, Inc.

Docket DOT-OST-2014-0146

Served January 11, 2017

CONSENT ORDER AND ORDER OF DISMISSAL

On August 27, 2014, Mr. Kevin Crowell filed a formal disability complaint against American Airlines, Inc., (American) pursuant to 14 CFR 382.159(b). Mr. Crowell alleges that American's employees at Miami International Airport failed to properly accommodate his service animal, and in doing so, aggravated Mr. Crowell's post-traumatic stress disorder (PTSD). He alleges that these actions violated the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and various provisions of 14 CFR Part 382.

This order finds that American's personnel failed to properly document the fact that Mr. Crowell was traveling with his service animal in such a manner as to reflect a lack of proper training under 14 CFR 382.141. This order directs American to cease and desist from future similar violations related to properly documenting in American's computerized records passengers traveling with service animals, directs the carrier to implement training procedures designed to avoid similar documentation problems in the future, and dismisses the complaint filed in the docket.

The Complaint

Mr. Crowell is a disabled combat veteran with a service animal, Bella, who assists him with PTSD and mobility issues. On April 28, 2014, he was scheduled to travel with his wife and Bella on American¹ from Jacksonville to Miami (Flight #3577), connecting to Key West (Flight

¹ The flights at issue were in fact operated by Envoy Air, Inc., an affiliate of American, doing business as American Eagle.

#3528), to attend a Wounded Warrior Project Couples' Odyssey. He contacted American before the flight and informed them that he would be traveling with a service animal. The agent assigned Mr. and Mrs. Crowell to bulkhead seating for both flights.

According to Mr. Crowell, the flight from Jacksonville to Miami was completed without incident. However, he asserts that after he arrived at the gate in Miami for the connecting flight to Key West, a gate agent informed Mrs. Crowell that "pets" could not fly in the bulkhead. He states that Mrs. Crowell showed the agent the documentation contained in Bella's vest, and explained that Bella was a service animal, not a pet. Nevertheless, Mr. Crowell states that the agent reassigned him to a non-bulkhead seat instead of his original bulkhead seat.

Mr. Crowell further states that when he boarded the aircraft, he was directed to the non-bulkhead seat. He objected to the transfer because Bella could not fit in front of him at that seat. According to Mr. Crowell, the American flight attendant told him again that "pets" could not sit in the bulkhead. Mr. Crowell explains that he continued to request his original seating assignment, but the American agent asked him to take his seat or be removed from the aircraft, as he was delaying departure. He alleges that the American agent then called for the pilot to step out of the cockpit to help her physically remove Mr. Crowell from the aircraft.

According to Mr. Crowell, the situation triggered his PTSD, so he disembarked and spoke with a supervisor, who again explained that pets could not be placed in bulkhead seats. He states that he then presented Bella's service animal documentation again, and asked to speak to another supervisor. Eventually, the matter was elevated to a Customer Care Manager and Complaints Resolution Official (CRO), who met them at a customer service counter.

Mr. Crowell further contends that when the Customer Care Manager arrived, he immediately began to pet Bella, despite the fact that she was wearing a vest stating, "Service Dog – Do Not Pet." Mr. Crowell avers that he is particularly sensitive to people touching his service animal without permission, and that this action worsened his mental state. The Customer Care Manager allegedly offered to accommodate the couple and Bella on the next flight to Key West, but Mr. Crowell declined, stating that he had no confidence in American's capacity to accommodate passengers with disabilities. According to Mr. Crowell, he and Mrs. Crowell rented a car and drove six hours back to Jacksonville; as a result, they were unable to attend the Wounded Warriors Project Couples' Odyssey.

Mr. Crowell asserts that American violated the ACAA and the following regulations: (1) 14 CFR 382.19, by refusing to provide him with transportation based on his disability; (2) 14 CFR 382.117, by failing to accommodate his service animal and by failing to accept his credible verbal assurance that Bella was a service animal; (3) 14 CFR 382.141, by failing to train its personnel to proficiency; and (4) 14 CFR 382.151, by failing to train its CRO to proficiency.

Answer of American

American filed its answer on September 11, 2014. We summarize American's response as follows. According to American, its reservations personnel added information regarding Mr. Crowell's service animal to his reservation, but they inadvertently omitted the special service

code that advises the airport and flight crew that a service animal is onboard. American concedes that the gate agent in Miami initially referred to Bella as a “pet,” but states that the agent apologized after Mr. Crowell corrected her. According to American, the gate agent proceeded to input the missing service animal code, but inadvertently used the code for a pet; as a result, the computer system assigned Mr. Crowell to a non-bulkhead seat. Nevertheless, the gate agent informed Mr. Crowell that he could still use the bulkhead seat.

American further states that while onboard the aircraft, the gate agent informed the flight attendant that the computer system would not allow Mr. Crowell to sit in a bulkhead seat with the animal. According to American, the flight attendant offered non-bulkhead seats to Mr. and Mrs. Crowell, but they refused. American states that the flight attendant was in fact willing to accept that Bella was a service dog, and was willing to seat Mr. Crowell and Bella in the bulkhead, so long as she could first verify with the pilot that Mr. Crowell could do so, given his seating assignment. According to American, the flight attendant asked Mr. and Mrs. Crowell to step off of the aircraft to resolve the situation because they were delaying boarding by standing in the aisle. According to American, Mr. and Mrs. Crowell left the aircraft on their own accord after the flight attendant notified the pilot of the situation. American states that the pilot confirmed that a passenger with a service animal could sit in the bulkhead, and the flight attendant then forwarded this information to the gate agent because Mr. and Mrs. Crowell had already departed the jetbridge.

According to American, the Lead Passenger Service Agent for Envoy was at the gate when Mr. and Mrs. Crowell deplaned. American states that this agent (who is also a CRO) apologized to Mr. and Mrs. Crowell, expressed her understanding that Bella is a service dog, and advised him several times that he could sit in the bulkhead seat with Bella. According to American, Mr. and Mrs. Crowell allegedly refused to board, despite these invitations and despite the fact that the Captain held the aircraft at the gate to re-accommodate them.²

American states that when a Customer Care Manager (who is also a CRO) arrived approximately 15-20 minutes later, he offered to re-accommodate Mr. and Mrs. Crowell on the next available flight to Key West, but Mr. Crowell refused. According to American, the Customer Care Manager offered vouchers, but Mr. Crowell declined this offer as well, stating that he would file a formal complaint. American also states that it has refunded Mr. and Mrs. Crowell for their entire fare and baggage fees, and has offered to pay rental car expenses.

In summary, American admits that its errors led to confusion about whether Mr. Crowell could sit in the bulkhead with Bella. American contends, however, that no violation of the ACAA or Part 382 occurred because American repeatedly offered to fully accommodate Mr. Crowell with Bella on the flight of his choice, but he refused.

Relevant Law, Analysis and Decision

The ACAA, 49 U.S.C. § 41705, prohibits air carriers from discrimination on the basis of physical or mental disability. The Department’s regulations implementing the ACAA are found

² American attached to its answer a sworn declaration from this agent.

at 14 CFR Part 382. Mr. Crowell alleges violations of sections 382.19, 382.117, 382.141, and 382.151. We address each claim in turn.

1. Denial of Transportation

Section 382.19(a) provides, in relevant part, that an air carrier “must not refuse to provide transportation to a passenger with a disability on the basis of his or her disability.”

Mr. Crowell’s complaint states, without elaboration, that American “refused to provide transportation” to him.³ It is undisputed that at one point while Mr. Crowell and Bella were onboard, a flight attendant asked Mr. and Mrs. Crowell to disembark. American asserts that it did so only to allow for orderly boarding of the aircraft as it attempted to resolve the error over Mr. Crowell’s seating arrangement. American also asserts that despite these errors, American’s staff did ultimately recognize Bella’s status as a service dog, and offered for Mr. Crowell to sit in his original seat with Bella. After reviewing the available record, we find insufficient evidence to support a conclusion that American violated section 382.19(a) by refusing to provide transportation to Mr. Crowell. We dismiss this claim.

2. Service Animals

Section 382.117 relates to service animals. Subsection (a) provides that an air carrier must permit a service animal to accompany a passenger with a disability. Subsections (b) and (c) state that an air carrier must permit the service animal to accompany the passenger at any seat in which the passenger sits, unless the animal obstructs the aisle or other area which is required to remain clear, in which case the air carrier must permit the passenger and the animal to sit where the animal may be accommodated. Subsection (d) states that a carrier must accept “credible verbal assurance” that an animal is, in fact, a service animal.

Here, Mr. Crowell alleges that American failed to accommodate his service animal in violation of section 382.117. American responds that despite initial confusion, American did permit Mr. Crowell to sit in his originally scheduled bulkhead seat with Bella as a service animal, but Mr. Crowell declined. After reviewing the available record, we find insufficient evidence to support a conclusion that American violated section 382.117 by refusing to permit Mr. Crowell’s service animal to accompany him, thereby denying him transportation. We dismiss this claim.

3. Training

Mr. Crowell also alleges that American violated sections 382.141 and 382.151 by failing to train its employees and CRO’s to proficiency. Section 382.141 provides, in relevant part, that an air

³ The Complaint is silent as to whether American offered to accommodate Mr. Crowell with Bella as a service dog on the originally scheduled flight. As noted above, American’s answer relies heavily on this point. We note that replies to answers are generally not authorized, except on written motion and for good cause shown. See 14 CFR 302.6(b), (c). Recognizing that a reply on this point would be helpful, the Enforcement Office notified counsel for both sides that a brief reply and surreply may be permitted. *See also* 14 CFR 302.404(c) (Enforcement Office may advise complainants of deficiencies in the complaint and require that additional information be supplied). The Enforcement Office set a deadline of November 26, 2014, for counsel to indicate whether supplemental pleadings would be filed, but we did not receive supplemental pleadings.

carrier must train to proficiency all personnel who deal with the traveling public, as appropriate to the duties of each employee, with regard to: (1) federal regulations affecting the provision of air travel to passengers with a disability; (2) the airline's own procedures; and (3) "awareness and appropriate responses to passengers with a disability, including persons with physical, sensory, mental, and emotional disabilities[.]" 14 CFR 382.141(a)(1), (2). Section 382.151 states, in relevant part, that a CRO must be "thoroughly familiar" with Part 382 and the carrier's own procedures; the CRO must be the carrier's "expert" with respect to compliance. *See also* section 382.141(a)(7) (CRO's must be trained to proficiency under section 382.141, and shall be trained in the requirements of a CRO).

American's series of errors in the handling of Mr. Crowell's seating arrangements is concerning. Two sources of error (the initial failure to input the proper service code for a service animal, and the gate agent's incorrect coding of Bella as a "pet") reflect lapses in training.⁴ In these respects, we find a violation of section 382.141.

Conclusion

The Enforcement Office and American have reached a settlement of this matter in order to avoid litigation. American consents to the issuance of an order to cease and desist from future similar violations of 14 CFR Part 382. The carrier has agreed to provide training to its reservations agents and gate agents regarding the proper handling of service animal requests.⁵ This order is appropriate considering the nature of the violations described herein, and the size and sophistication of the carrier, and will serve the public interest. It comprises a strong deterrent against future similar violations of 14 CFR 382.141 related to the proper computerized documentation of passengers traveling with service animals.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that American Airlines, Inc., failed to train to proficiency its public contact employees (reservation agents and gate agents), who were attempting to assist Mr. Crowell travel with his service animal, concerning the requirements of 14 CFR Part 382, and American's training with respect to procedures concerning the documentation of passengers with disabilities who are traveling with service animals, in violation of 14 CFR 382.141;

⁴ The record is inconclusive as to whether members of American's staff improperly attempted to pet Mr. Crowell's service animal, and the record indicates that the flight attendant did know, as a general matter, that passengers with service animals may sit in the bulkhead. It appears that the flight attendant, under the unusual circumstances presented here, sought to confirm with the pilot that Mr. Crowell and Bella could sit in the bulkhead despite a nonconforming seating assignment.

⁵ The Enforcement Office has reviewed American's training materials and its method for distributing this material.

3. Based on the finding in paragraph 2, we find that American also violated the Air Carrier Access Act, 49 U.S.C. § 41705;
4. We order American Airlines, Inc., and its successors and assignees, to cease and desist from similar violations of 14 CFR 382.141 and 49 U.S.C. § 41705 as described in ordering paragraph 2, above;
5. Within 30 days of the date of this order, American Airlines, Inc., is directed to:
 - a. Provide supplemental training to its reservations agents regarding the proper method of documenting passengers' requests to travel with service animals;
 - b. Provide supplemental training to its gate agents regarding the proper handling of service animal requests at the gate, the proper documentation of such requests, and the proper means of correcting errors or omissions in the passenger's Passenger Name Record related to such requests;
 - c. Ensure that this supplemental material is integrated into the training of new reservations agents and gate agents; and
6. Within 60 days of the date of this order, American Airlines, Inc., is directed to provide documentation, in a form approved by the Department, that such training has taken place;
7. Should American Airlines, Inc., fail to fulfill any provision of paragraphs 5 or 6, above, American Airlines, Inc., is subject to further enforcement action; and
8. We dismiss the complaint filed in Docket DOT-OST-2014-0146.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

By:

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