

BEFORE THE DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, D.C.

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Denise Williams,)	
)	
v.)	Docket DOT-OST-2020-____
)	
United Airlines)	
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COMPLAINT OF DENISE WILLIAMS

Comments with respect to this document should be addressed to:

Denise Jane Williams
80 Parklyn Court
Upper Tantallon, NS, Canada.
B3Z 1N3

E-mail: denise.williams@hotmail.com

Dated: August 16, 2020

BEFORE THE DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, D.C.

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Denise Williams,)
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v.) Docket DOT-OST-2020-____
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COMPLAINT OF DENISE WILLIAMS

1. This complaint arises out of United Airlines’s non-compliance with the Department’s rules regarding consumers’ right to be refunded for flights to or from the United States (“U.S. Flights”) cancelled by airlines, even for reasons outside the carriers’ control, as described in the Department’s “Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel”¹ (“Enforcement Notice”).
2. This complaint also arises out of United Airlines’s application of its refund policies, which constitutes an unfair or deceptive practice within the meaning of 49 U.S.C. § 41712². According to 14 CFR § 399.80(1)(l), it is the policy of the Department to regard as an unfair or deceptive practice or unfair method of competition the practices

¹ Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel (April 3, 2020) at https://www.transportation.gov/airconsumer/enforcement_notice_refunds_apr_3_2020.

See also 14 CFR § 259.5(b)(5), and Enhancing Airline Passenger Protections, 76 Fed. Reg. 23110-01, at 23129 (Apr. 25, 2011).

² Under 49 USC § 41712, the Department is authorized to investigate and decide whether a U.S. air carrier, foreign air carrier, or ticket agent engaged in an unfair or deceptive practice in air transportation or the sale of air transportation. The Department is also authorized to issue orders to stop an unfair or deceptive practice after notice and opportunity for a hearing.

enumerated in paragraphs (a) through (n) of this section by a ticket agent of any size and the practice enumerated in paragraph(s) by a ticket agent that sells air transportation online and is not considered a small business under the Small Business Administration's size standards set forth in 13 CFR 121.201:

(l) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point, thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.

FACTS

A. Flight cancelled by United Airlines

3. On December 26, 2019, I purchased a ticket for a one-way flight on United Airlines from Los Angeles (LAX) to Halifax (YHZ) departing on October 3, 2020 with a layover in Toronto (Attachment 1). I booked the flight via Sell Off Vacations.
4. On , I learned that my flight was cancelled by United Airlines (Attachment 2).
5. On July 23, 2020, I contacted United Airlines to request a refund for the cancelled flight, but my request was denied. I was offered a Voucher/Credit (Attachment 3). I accepted a voucher/credit of \$0.00.
6. I had booked the flight on behalf of 4 person(s). The name(s) of the individual(s) are the following: Paul Leamund Williams, Cynthia Norwood, Stephen Roger Norwood.

B. United Airlines's refund policy for cancelled flights

7. United Airlines's current policy is that customers who purchased nonrefundable flight tickets are not entitled to receive full refunds for flights cancelled or changed by the

carrier due to reasons outside its control, including cancellations attributed to the COVID-19 pandemic. United Airlines only offers flight vouchers or credits in such situations and claims in its United States English website that “in accordance with government regulations”, that such bookings are ineligible for a refund .

C. United Airlines’s obligations

8. United Airlines is an airline that operates flights from and to the United States and is therefore subject to the Department’s jurisdiction for such flights and bound by the rules enunciated in the Enforcement Notice, which apply to U.S. and foreign airlines operating flights from, to and within the United States.
9. In its Enforcement Notice, and based on existing federal regulation, the Department reminds airlines about their obligation to offer prompt refunds for flights significantly delayed or cancelled by the carriers, even if the reason of such flight disruptions are outside the carrier’s control, and regardless of the nonrefundability or cancellation penalty provisions of the ticket purchased by the affected consumers.
10. In page 2 of its Enforcement Notice, the Department lists the actions non-complying airlines must take to avoid enforcement action, as follows:
 - a. the carrier contacts, in a timely manner, the passengers provided vouchers for flights that the carrier cancelled or significantly delayed to notify those passengers that they have the option of a refund;
 - b. the carrier updates its refund policies and contract of carriage provisions to make clear that it provides refunds to passengers if the carrier cancels a flight or makes a significant schedule change;

- c. the carrier reviews with its personnel, including reservationists, ticket counter agents, refund personnel, and other customer service professionals, the circumstances under which refunds should be made.

11. On May 12, 2020, the Department issued a notice³ in the form of answers to frequently asked questions regarding airline ticket refunds. In the answer to question 4 of the notice, the Department reiterates that airlines may not retroactively apply changes to their refund policies and must honor the policies in place at the time of ticket purchase.

D. United Airlines's non-compliance and violations

12. United Airlines's policy of not issuing prompt refunds for U.S. Flights that are significantly delayed or cancelled by the carrier for reasons outside its control, and regardless of the nonrefundability and cancellation penalty provisions of the purchased ticket, is in direct violation of its obligation to offer prompt refunds to affected consumers as per the rules detailed in the Department's Enforcement Notice.
13. Prior to the COVID-19 pandemic, United Airlines's policies indicated that consumers can receive refunds for schedule changes and cancellations attributed to the COVID-19 pandemic. However, and since then, United Airlines changed its refund policies for cancellations and schedule changes in a way that negatively affects consumers by no longer permitting refunds. The new policy is applied by United Airlines based on the date of the cancellation or schedule change, and regardless of the policy in place at the time the passenger purchased the ticket.

³ U.S. Department of Transportation, Office of Aviation Enforcement and Proceedings, Frequently Asked Questions Regarding Airline Ticket Refunds Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel (See answer to question 4: "May airlines and ticket agents retroactively apply new refund policies?") https://www.transportation.gov/airconsumer/FAQ_refunds_may_12_2020.

14. The aforementioned no-refund policy is applied by United Airlines regardless of the policies and terms in place at the time consumers purchased flight tickets, which stipulate that United Airlines will issue refunds for cancelled flights. United Airlines's policy constitutes an unfair or deceptive practice within the meaning of 49 U.S.C. § 41712.
15. According to 14 CFR § 399.80(1)(l), it is the policy of the Department to regard as an unfair or deceptive practice or unfair method of competition the practices enumerated in paragraphs (a) through (n) of this section by a ticket agent of any size and the practice enumerated in paragraph(s) by a ticket agent that sells air transportation online and is not considered a small business under the Small Business Administration's size standards set forth in 13 CFR 121.201:
 - (l) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point, thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.
16. Many airlines are complying with their obligations to refund passengers, especially after the issuance of the Enforcement Notice on April 3rd. These airlines will be in an unfairly disadvantageous situation if other airlines, such as United Airlines are allowed to continue practices that violate the same obligations without incurring any penalty.

REQUESTED RESOLUTION

17. I am seeking the airline provide me with an Refund. In addition, I ask that the Department of Transportation to do the following:

- (1) Exercise its authority under 49 USC 41712 to open an investigation of United Airlines for its non-compliance with the Department's Enforcement Notice and the regulations on which the notice is based;
- (2) Order United Airlines to comply with its obligation to offer prompt full refunds to original form of payment for U.S. flights that are significantly delayed or cancelled by the carrier, regardless of the reason of such flight disturbances and regardless of the nonrefundability or the cancellation penalty of the tickets purchased by affected customers.
- (3) Order United Airlines to:
 - a. contact, in a timely manner, the passengers provided vouchers for U.S. Flights significantly delayed or cancelled by the carrier to notify those passengers that they have the option of a refund;
 - b. update its refund policies, contract of carriage and tariff provisions to make clear that it provides prompt refunds to passengers if the carrier cancels a U.S. Flight or makes a significant schedule change, regardless of the reason of such flight disruptions and regardless of the nonrefundability or the cancellation penalty provisions of the tickets purchased by the affected customers;
 - c. review with its personnel, including reservationists, ticket counter agents, refund personnel, and other customer service professionals, the circumstances under which refunds should be made.
- (4) Impose appropriate civil penalties on United Airlines.

Denise Williams
Complaint – United Airlines

Respectfully submitted,

A handwritten signature in black ink that reads "Denise Williams". The script is cursive and fluid, with the first name "Denise" and last name "Williams" clearly legible.

Denise Williams

Attachment 1

Copy of flight itinerary/eticket receipt

7/19/2020

Mail - Denise Williams - Outlook

SellOffVacations Airfares Booking Confirmation VNH4XW

SellOffVacations Travel Team <reservations@selloffvacationsinfo.com>

Thu 2019-12-26 9:13 PM

To: denise.williams@hotmail.com <denise.williams@hotmail.com>

Summary of your booking / Request is below.

Date of transaction: Thu Dec 26 20:13 PM



Ticket details:

SellOffVacations Booking ID:8522694

Confirmation number:
VNH4XW

Your flight has been booked with **United Airlines** using SellOffVacations .

Outbound Flight: Check-in with **AIR CANADA** at least 3 hours prior to departure as they are the operating carrier for this flight.

Your **Electronic ticket(s)** will be sent to the email provided **within one business day or less** upon verifying of your flight details.

Passenger information:

Adult : Mrs Denise Jane Williams (Age: 59)
Adult : Mr Paul Leamund Williams (Age: 58)
Adult : Mrs Cynthia Norwood (Age: 58)
Adult : Mr Stephen Roger Norwood (Age: 59)

Depart : Saturday October 03, 2020

Departs from:	Arrives:	Airline:
Los Angeles - CA, Los Angeles International (LAX) 11:45am Sat Oct 03	Toronto - ON, Lester B Pearson International (YYZ) 7:25pm Sat Oct 03	United Airlines # 8328 Operated by: AIR CANADA

Flight Duration : 4h 40m | **Connection Time:** 1h 55m | **Economy**

Toronto - ON, Lester B Pearson International (YYZ) 9:20pm Sat Oct 03	Halifax - NS, Halifax International (YHZ) 12:29am Sun Oct 04	United Airlines # 8538 Operated by: AIR CANADA
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Flight Duration : 2h 09m | **Economy**

c66

Details :

Denise Williams
Complaint – United Airlines

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Mail - Denise Williams - Outlook

Insurance Details

DECLINED

You have DECLINED travel Insurance. Travel insurance is designed to make travel a worry-free experience. Emergencies can occur even to the most well prepared of frequent traveller. Travel insurance protects you against these unforeseen incidents and ensures that financial help is readily available to you. Purchasing travel insurance is purchasing 'Peace of mind'. For assistance contact our offices at 1-866-732-8725.

Pricing details:

Flight

Traveller Fare	#Pax	Selling	HST	Other Taxes	Total
Adult	4	\$ 295.96	0.51	\$ 50.29	\$ 1,387.04
Flight Total					\$ 1,387.04
Total Trip cost					\$ 1,387.04

Payment details:

Charge

Flight	Credit Card: Visa	Amount: \$ 1,387.03
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** All charges are charged by the supplier directly, any Surcharges are charged by SellOffVacations or FlightNetwork.
*** If your credit card payment is declined or if you have not provided us accurate credit card billing information your reservation is liable to be cancelled without notice. Proof of documents for bookings using a third party credit card, may be required, back and front of card and copy of drivers' license.

The amount displayed for an 'Authorized Transaction' may be different from what you actually paid, as some merchants require a temporary hold be placed on additional funds. This is a common practice for many other merchants such as: gas stations, restaurants and hotels. The correct amount will display when the transaction is shown as a 'Posted Transaction'. A delay may occur between the time a transaction is settled and removed from Authorized Transactions, and when it appears in Posted Transactions. Some transactions may appear as both an Authorized and a Posted Transaction until settled. When applying a debit/visa card for payment, and in the event of a cancellation, your funds may be held up to 60 days by your financial institution. We strongly recommend an alternative form of payment to avoid any inconveniences.

Contact/billing details:

Contact Name: Denise Williams
Email: denise.williams@hotmail.com
Telephone: 902-719-9747 (Home)
Billing Address : 80 Parklyn Court , Upper Tantallon , NS , B3Z1N3 , CA

Change and cancellation :

If you need to change or cancel your United Airlines reservation please call us immediately at 1-866-732-8725.

The tickets are non-refundable and name changes are not permitted.

Changes :

The minimum change fee for your flight is CAD \$ 150, per passenger, plus any fare difference and all applicable taxes.

Denise Williams Complaint – United Airlines

7/19/2020

Mail - Denise Williams - Outlook

on the day the booking was done.

For all other cancellations, a minimum fee of CAD \$ 138.70, per passenger, is charged at the time of cancellation and an airline fee is applied at the time of rebooking. If permitted by the airline, the remaining funds may be available within one year of the cancellation. However, please note that the travel credit is available only to the passenger listed on the original ticket.

No Show :

Customers who do not appear or 'no show' for their flight will forfeit the entire fare paid. To avoid this, please contact us at least 3 hours before the original departure time of your flight to check the exact fare rules of your ticket. If you arrive at the airport late or are denied boarding you will forfeit the entire fare paid.

Name Corrections/Changes:

Full name changes are not permitted. Name corrections may be available at a cost if permitted by the airline(s).

Mandatory information:

Important Information Please Read

Thank you for choosing SellOffVacations. Please double check your booking information below and in the booking receipt attached to this email to verify the flight details and the spelling of your name matches the legal name as it appears on the valid passport or government issued photo id, as most tickets NON- REFUNDABLE and NON-CHANGEABLE. If the entire information is accurate, you do not need to contact us.

Your booking is subject to the terms and conditions of our website. You must reconfirm your flights 24 hours prior to travel directly with the airline.

Passports/Visas/Health Requirements

Please note that many countries require that your passport be valid for a period of (a minimum) six months beyond your return date. You should ensure that you meet the passport, visa, affidavit, health and other requirements of the countries you wish to visit and those that you transit (even if it is for a plane change). We accept no responsibility if you should be denied boarding or deported for any reason including your age.

Please consult the Country Travel Reports and Tourist Visa Requirements Page found on the website of [Canada Foreign Affairs and International Trade Canada](#) for all entry/exit requirements, travel tips and local health information.

Please also check [VisaCentral](#) to find out what type of Visa you will need for your International travel needs, all entry/exit requirements, travel tips and local health information.

Baggage Allowance and Restrictions:

Please check your electronic ticket for Baggage Allowances. Baggage Allowance and Restrictions apply to all airlines and are subject to change at any time. If you have questions about Baggage contact the airline you are travelling with directly to verify the specific Baggage restrictions.

Advance Seat Selection:

Advance seat selection is available on some airlines and is subject to availability and the fare type booked. If you are unable to obtain advanced seat selection online, the airlines do hold a percentage of seats until the day of departure for airport check-in. Customers with special needs should contact the operating airline directly for their seating needs. Advanced seat selection is subject to change at any time and is fully controlled by the operating airline(s).

Terms and Conditions:

I accept the SellOffVacations's Terms and Conditions which are stated here <http://www.selloffvacations.com/terms> and which covers important topics such as Flight Confirmation, Passports/Visas, Cancellation and Changes and Lost Tickets. I understand that even after pressing the Purchase Button that a reservation is not confirmed until I receive a confirmation email.

You have verified denise.williams@hotmail.com is the correct email address.

Your credit card will be charged an approximate total of **CAD \$ 1,387.04** which includes the base fare, taxes and all surcharges. The final amount on your bank statement may vary upon the exchange rate that your credit card company will use. The breakdown of your charges include flight(s) United Airlines (**USD \$ 1,054.44**) (**CAD \$ 1,387.03**). Your statement may show one or more charges that equal the total agreed charge listed here. These amounts have been converted using today's exchange rate.

Denise Williams
Complaint – United Airlines

7/19/2020

Mail - Denise Williams - Outlook

SellOffVacations
27 Fasken Drive
Toronto, Ontario
Canada
M9W 1K6

Tel: 1-866-732-8725

E-mail: reservations@selloffvacations.com

Confidentiality Notice:

This email message, including any attachments may contain confidential and privileged information intended only for the person(s) named above. If you are not the intended recipient or have received this message in error, please notify the sender immediately by reply e-mail and permanently delete the original transmission from us, including any attachments, without disseminating, distributing or making a copy. Any unauthorized review; use or disclosure is prohibited. Thank you.

SellOffVacations.com | 27 Fasken Drive | Toronto | ON | M9W 1K6 | Toll Free: 1-866-732-8725

Attachment 2

Confirmation/notice that a flight in your reservation has been cancelled by the airline.

12/08/2020

Mail - Denise Williams - Outlook

Order 8522694

Flightnetwork <no-reply.ca-en@support.flightnetwork.com>

Thu 2020-07-23 11:35 AM

To: denise.williams@hotmail.com <denise.williams@hotmail.com>



Dear Sir/Madam,

Your tickets in booking VNH4XW have been converted into open tickets.

The credit to be used and the travel should be commence and completed before 26 December 2021 name and airline change is not permitted and fare difference will apply.

To change the time and date of your booking you need to contact us by telephone. That's where we handle rebooking/changes. Our opening hours as well as phone number can be found on our website, under "Contact."

Call us and we will look together at the possibility of rebooking your ticket.

Kind regards,
Diana N
Flight Network

Please note that this is a no-reply email.
If you would like to contact us, please [click here](#).

Denise Williams
Complaint – United Airlines

Attachment 3

Proof of communication that the Airline denied your request for a refund.

None

Additional Attachments

Denise Williams
Complaint – United Airlines

Copy of email from agent at Sell Off Vacations.

Denise Williams
Complaint – United Airlines

16/08/2020

Mail - Denise Williams - Outlook

From: Cindy <sindeenorwood@eastlink.ca>
Sent: July 22, 2020 7:53 PM
To: Jennifer MacDonald <jmacdonald@selloffvacations.com>
Subject: RE: Schedule Change

Hi Jennifer,

We both want to cancel both segments (everything), coming and going.
If you could take care of this for us we would appreciate it.
If you have any questions tomorrow, we are heading out of town on a mini vaca to CB so you can call (902) 719-9747.
This will be the best way if you need us.
Thank you for taking care of us.

Cindy & Denise

Sent from [Mail](#) for Windows 10

From: [Jennifer MacDonald](#)
Sent: July 22, 2020 6:13 PM
To: [Cindy](#); [denise.williams@hotmail.com](#)
Subject: Re: Schedule Change

Thanks again for your patience, Cindy and Denise.

I followed up with the supplier and because the cancellation of the flight was a Covid19 related flight suspension, unfortunately there is no option for a refund. The terms of the Future Travel Credit are below. Please let me know if you'd like for me to go ahead and cancel or if you have any questions. Please note that I am in the office tomorrow (Thursday) until 5pm but will be on vacation after that, not returning until August 4th. I can certainly help upon my return but for the Los Angeles to Halifax flight cancellation options, cancellation must be completed by July 31st. Any agent at Selloffvacations will be able to assist in my absence.

Halifax to Seattle flight cancellation - Future Travel Credit terms. VM7JN2

- Future Travel Credit - for travel completed by Sept 30, 2022. Change fee is waived. Guest must pay any difference in fare.

Los Angeles to Halifax flight cancellation - Future Travel Credit terms. VNH4XW

Must be cancelled before 31 July. Can be used until 24 months from original ticket issue date so travel must be completed by 26 Dec 21. Change fee is waived. Guest must pay any difference in fare.

Kind regards,

Jenn

Denise Williams
Complaint – United Airlines

16/08/2020

Mail - Denise Williams - Outlook

If you need immediate assistance please contact one of my colleagues at 902-893-3375 or toll free 1-877-735-5633.

Jennifer MacDonald | Selling Supervisor

Tel: 902-893-3375 Ext. 6362 | Toll: 877-735-5633 Ext.6362

Email: jmacdonald@selloffvacations.com

Fundy Trail Centre, 68 Robie Street, Unit 165, Truro, NS, B2N 1L2

www.selloffvacations.com



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Certificate of Service

I hereby certify that I have, this 16 day of August 2020 a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Kimberly Graber, Esq.

kimberly.graber@dot.gov

Blane Workie, Esq.

blane.workie@dot.gov

Robert Gorman, Esq.

robert.gorman@dot.gov

A handwritten signature in black ink that reads "Denise Williams". The signature is written in a cursive, flowing style.

Denise Williams