

Denied Boarding: A Guide

I. Purpose

This is a guide explaining passenger rights and airline obligations in the event a passenger is denied boarding. These apply to flights to, from and within Canada, including connecting flights. If a passenger is denied boarding, the carrier operating the affected flight is responsible for meeting obligations to that passenger. Specifically, this guide explains:

- the concept of "denied boarding" and how it is different from "refusal to transport";
- how airlines' obligations differ depending on whether they deny boarding for reasons within their control or outside their control; and
- what airlines must do for the affected passengers in those different cases.

This guide also gives the Canadian Transportation Agency's (Agency) view of some common denied boarding situations. These examples are meant to help passengers and airlines understand how the Agency would apply, in practice, the law and regulations related to denied boarding. They should help passengers and airlines understand what issues the Agency would consider, and what decision it might make, if someone brought a complaint against an airline regarding denial of boarding.

The guide describes airlines' minimum obligations to passengers who are denied boarding. These must be reflected in airlines' tariffs. Airlines' terms and conditions may always offer passengers terms that go beyond the minimum requirements. In addition, a passenger travelling internationally may avail themselves of the [Montreal or Warsaw Convention](#) provisions on carrier liability when a passenger is delayed.

Provisions on denied boarding can be found in the [Canada Transportation Act, section 86.11\(1\)](#) and the [Air Passenger Protection Regulations](#). Annex A highlights key provisions in this area.

In case of differences between this guide and the legislation or regulations, the legislation and regulations prevail.
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II. What is denied boarding?

Denied boarding occurs when a passenger has a valid ticket for a flight, but is not allowed to occupy a seat on board the aircraft because the number of passengers who

have checked in and are at the gate on time is greater than the number of available seats that can be occupied. Passengers presenting themselves for travel must also have confirmed reservations and valid travel documents.

Denied boarding may result if:

- the carrier intentionally oversells the actual number of seats on the aircraft (known as "overbooking"); or
- there are fewer seats than originally anticipated, for example, because the aircraft has been exchanged for a smaller one.

Denying a passenger boarding because there are not enough seats is not the same as refusing to transport them, for example:

- for health, safety, or security reasons;
- for failing to follow carrier rules or instructions;
- because a passenger does not have appropriate travel documents; or
- the passenger has failed to respect check-in and departure gate cut-off time limits.

The obligations discussed in this guide do not apply to refusal to transport. Airlines are still required to set out their policies in their tariffs and to indicate when they will refuse to transport a passenger and under what circumstances.

III. Three categories of denied boarding

Airlines have certain minimum obligations if they deny a passenger boarding. Their responsibilities depend on whether the reason they deny boarding is within their control, within their control but required for safety, or outside their control. These concepts are described below and, in greater detail, in *Types and Categories of Flight Disruption: A Guide*.

Within the carrier's control:

The most common situation within a carrier's control leading to denied boarding is overbooking (when the carrier intentionally sold more tickets for the flight than were available on the aircraft). Switching out, for commercial reasons, an aircraft for one with fewer seats also falls into this category.

Within the carrier's control, but required for safety:

These are situations in which a carrier must deny boarding in order to comply with laws in place to ensure the safety of the flight, the passenger in question, or other passengers on board (e.g., the *Canadian Aviation Regulations* and standards, Safety Management Systems). Examples include: malfunctions affecting the safety of certain seats, or having to limit the number of passengers on board to ensure safe weight and balance of the aircraft.

There is a distinction between switching out an aircraft for safety reasons and switching it out for commercial reasons. Instances of denied boarding are more likely to be "required for safety" when they stem from mechanical failures. For example, an aircraft breaks down and the only available replacement aircraft is smaller or has fewer seats than the original.

Outside the carrier's control:

Often, situations outside the carrier's control affect all passengers on the aircraft, which would not be considered denied boarding, but rather a delay or cancellation of the entire flight. That said, some cases could affect only a few passengers. For example, an airline may need to deny boarding to a passenger in order to accommodate the seating of an air marshal or for emergency medical transportation, which would be considered outside the carrier's control.

IV. Large and small carriers

Some of the specific steps airlines must take in a denied boarding situation depend on whether they are a large carrier or a small carrier. These sizes are defined in regulation. An airline is a large carrier if it transported at least two million passengers during each of the past two years. This number includes enplaned and deplaned passengers in the airline's worldwide network.

Otherwise, the carrier is a small carrier.

A carrier's tariff must say whether it is a large or small carrier.

When a small carrier is transporting passengers on behalf of a large carrier under a commercial agreement (e.g., through a code share or block space agreement), it will have to follow the large carrier obligations toward those passengers.

V. Call for Volunteers

Before any carrier denies boarding for reasons within its control or required for safety, it must look for volunteers from all confirmed passengers. It may not deny anyone boarding until it has taken this step.

We encourage airlines to negotiate with passengers, or offer benefits, to get them to voluntarily move to a later flight. We recommend that airlines advise passengers of denied boarding entitlements under the *Air Passenger Protection Regulations* and that these do not apply to volunteers who move to a later flight. Airlines must put in writing the benefits offered and the volunteering passenger must agree to them prior to the departure of their flight.

Denying boarding to an unwilling passenger should be an airline's last resort and passengers already on board cannot be denied boarding other than for safety reasons.

We also encourage airlines to look for volunteers in situations outside of their control. While this is not an obligation under *the Air Passenger Protection Regulations*, seeking volunteers instead of denying boarding to a passenger against their will may quickly resolve the situation to everyone's satisfaction.

VI. Priority Boarding

If an airline must deny boarding to a passenger against their will because it has been unable to find a volunteer willing to give up their seat, the airline must take measures to prioritize boarding. The following passengers must be the last people to be denied boarding against their will: unaccompanied minors; persons with a disability and their support person, service animal, or emotional support animal, if any; passengers who are travelling with their family; and passengers who were previously denied boarding on the same ticket.

Once the airline has identified passengers from the priority list, and ensured that these passengers will be able to board, the airline may proceed to deny boarding from among the remaining passengers based on boarding priorities found in their tariff.

VII. Passengers already on the aircraft

While passengers who have already boarded the aircraft may volunteer to give up their seat, the airline may not choose an already-seated passenger for denied boarding, unless it is for safety reasons. As noted above, this prohibition does not impact the airline's authority to refuse transport to a passenger based on the refusal to transport rule in its tariff.

VIII. Obligations: Situations within the carrier's control

If an airline denies boarding against a passenger's will, its obligations include:

- Making alternate travel arrangements
- Providing standards of treatment
- Paying compensation for inconvenience
- Communicating key information to passengers

Alternate travel arrangements

The airline must re-book the passenger's travel immediately and free of charge. The alternate travel arrangements made must ensure the passenger gets to their destination as soon as it is feasible.

Large Carrier

Large carriers must provide the passenger with a confirmed reservation on the next available flight they operate or that is operated by another carrier with which they have a commercial agreement. The new flight:

- may take any reasonable route out of the same airport to the passenger's destination; and
- must depart within nine hours of the departure time on the passenger's original ticket.

If the carrier cannot meet this obligation, it must provide the passenger with a confirmed reservation on the next available flight that is operated by any carrier on any reasonable route out of the same airport to the passenger's destination. This may mean the large carrier has to purchase the passenger a ticket on a carrier with which it does not have a commercial agreement.

If there is no available flight departing from the original airport within 48 hours of the original departure time, the large carrier must book the passenger on a flight from a nearby airport, if there is one available. The large carrier must also transport the passenger, free of charge, to that airport.

Small Carrier

In the case of small carriers, the passenger is entitled to a confirmed reservation on the next available flight they operate, or operated by another carrier with which the small carrier has a commercial agreement. The flight may take any reasonable route to the

passenger's destination. A small carrier is not obligated to book the passenger with a carrier if it has no commercial agreement with that carrier.

Example

A large carrier is making alternate travel arrangements for a passenger who was denied boarding from a direct flight from Punta Cana to Vancouver. In determining options, the carrier must consider whether the available flights take reasonable routes. The first available option involves two connections – in Toronto and Edmonton – and would result in the passenger reaching their destination 28 hours later than indicated on their original ticket. This may not be considered a reasonable option, as the passenger would be further inconvenienced by multiple connections (where they had originally booked a direct flight) and the duration of the alternate travel arrangement. In this case, a direct flight leaving later would likely be considered the more reasonable option.

Comparable conditions (services)

To the extent possible, airlines must provide alternate travel arrangements comparable to the ones the passenger originally purchased in terms of:

- the class of service; and
- added services the passenger purchased.

If the arrangements mean the passenger will be travelling in a higher class of service than originally purchased, the airline must not ask for an additional payment. If the passenger will be travelling in a lower class of service, the airline must refund the difference in cost for the applicable portion of the original ticket.

Airlines may also have to refund the passenger for additional services, as explained below.

Refund of additional services

In addition to refunding passengers for re-booking them into a lower class of service, an airline must refund them for added services they purchased if:

- they do not receive those services on the alternate flight; or
- they pay for those services a second time.

For example, if the passenger prepaid for a meal and a meal was not available on the alternate flight, or the passenger had to buy the meal again, the airline is obligated to refund the cost of that prepaid meal.

Refund

If the alternate travel arrangements an airline offers do not meet the passenger's needs, and the passenger is no longer at the point of origin on their itinerary, the airline must refund the ticket and provide the passenger with a confirmed reservation back to the point of origin on the ticket.

In any other case when the alternate travel arrangements offered do not meet the passenger's travel needs, the passenger is entitled to a refund of the unused portion of the ticket.

Form of refund

Refunds must be made to the person who purchased the ticket, in the same form of payment in which the ticket or additional service was purchased.

Standards of Treatment

Airlines have to provide passengers certain amenities free of charge while they wait for the new flights being arranged for them.

Reasonable quantities of food and drink

Airlines should take into account the following factors when determining the quantity of food and drink to provide.

- Length of delay/time of day: The length of the delay and the time of day should be considered when determining when to provide food and in what quantities. For example, it would be reasonable to expect greater quantities of food at typical meal times and after waiting for a long period of time.
- Location of airport: The location of the delay may affect the availability and range of food and drink options (e.g., Canada's North and remote areas).

Access to means of communication

How an airline gives the passenger access to communication, and to what extent, should depend on circumstances. For example, the airline could loan the passenger a cell phone, provide a pre-paid calling card, or provide access to Wi-Fi.

Overnight accommodation

If the airline expects that a passenger will wait overnight for the new flight it is arranging (and where this would not have been necessary for the original flight), it must offer the passenger hotel or other comparable accommodation. This must be:

- free of charge to the passenger;
- reasonable, considering the passenger's location;
- include transportation to and from the accommodation.

Example

A passenger has been denied boarding at their point of departure for a 2:00pm flight out of an airport in Canada's North. The airline has made new travel arrangements for the passenger on a flight early the following morning.

When arranging overnight accommodations for this passenger, the airline should first discuss with the passenger whether accommodations are needed. For example, if the passenger lives near the airport, it may be more convenient for them to stay at their home, in which case, the airline must simply cover their transportation home and back to the airport the next day.

If the passenger does need accommodation, the arrangements the airline makes are always dependent on the availability of accommodations. The airline is expected to make every reasonable effort to secure hotel accommodations for the passenger. In certain circumstances (e.g., in a remote community), it may not be possible to book accommodations within a reasonable distance of the airport (to ensure the passenger can make it back to the airport the next morning). The airline should discuss this matter with the passenger and make every effort to ensure their comfort overnight.

Refusing or limiting the standard of treatment

If it is clear that giving food and drink, access to communications, or accommodations would further delay the passenger, an airline may refuse, or limit what it provides. For example, if a passenger has been denied boarding, but their new flight leaves within 30 minutes, offering food or airport food vouchers to passengers could impede the passenger's boarding process and continued travels.

Compensation

In all denied boarding cases within the carrier's control except those required for safety, the carrier must compensate the passenger for the inconvenience. The longer the passenger is delayed, the more compensation the airline must pay. Specifically, it must pay:

- \$900 if the passenger's arrival time at their destination on the original ticket is delayed by less than six hours;
- \$1,800 if the arrival time is delayed by six hours or more, but less than nine hours; and
- \$2,400, if the arrival time is delayed by nine hours or more.

A passenger must not be refused compensation for also being eligible for compensation under another regime; however, passengers would only be able to receive compensation under the *Air Passenger Protection Regulations* if they have not already received compensation for the same event under a different regime.

When to pay

The airline should pay passengers their compensation immediately. If it is not operationally feasible to pay before the passenger departs on a new flight, the airline must give the passenger written confirmation of the amount to which they are entitled. The airline must base this amount on the estimated time by which the passenger's arrival at final destination will be delayed.

If the actual delay turns out to be longer than the estimate, the airline must adjust the compensation to reflect the actual delay.

In all instances, the airline must provide the passenger their payment within 48 hours.

How to pay

Airlines must offer passengers their compensation in monetary form. This can include cash, cheque, bank drafts, and electronic bank transfers. It is recognized that carriers might not have cash on hand at boarding gates or anywhere in an airport terminal. They are not required to have cash on hand, but we encourage them to use all available means to pay passengers immediately.

Airlines may offer another form of compensation, such as vouchers, but only if:

- they tell the passenger what monetary amount they are entitled to;
- they tell the passenger the value of the other form of compensation they are offering;
- this other form is greater in value than the monetary amount the passenger is entitled to; and
- this other form of compensation has no expiry date.

The passenger must confirm in writing (e.g., by signing a document) that the airline informed them of the monetary amount they were entitled to and that they elected to accept the other form of compensation.

Communicating with Passengers

Airlines have specific communication obligations that they must meet. In every instance of denied boarding, they must tell affected passengers:

- why they are being denied boarding;
- whether or not the reason requires the airline to compensate them for the inconvenience;
- if applicable, how much the airline must pay them and how the amount changes with the length of their delay;
- what treatment (food, drink, and other) the airline must give them; and
- about their rights and options for making a complaint, including to the Agency.

This information must be shared directly with the passenger audibly, and, if requested, visually (e.g., in writing) at the time boarding is denied. Airlines must also share the information with the passenger through the means of communication the passenger has selected (e.g., SMS or e-mail) from among those available. If the passenger has not expressed a preference, airlines may use their usual method of communicating with passengers.

While the *Air Passenger Protection Regulations* do not specify the communication methods an airline must use with passengers, it does require that they offer means of communication compatible with adaptive technologies used by persons with disabilities. Generally speaking, airlines would be expected, over time, to adopt up-to-date technology in order to effectively serve passengers and ensure that information is provided in a clear and timely manner.

IX. Obligations: Situations within the carrier's control, but required for safety

If an airline denies a passenger boarding for reasons within its control, but required for safety purposes, it does not have to compensate the passenger. Otherwise, it has all the obligations described under "Situations within the carrier's control", above.

X. Obligations: Situations outside the carrier's control

If an airline denies boarding for reasons outside its control, it does not have to look for volunteers (though this is still encouraged), compensate affected passengers, or meet any standards of treatment. That is, the airline does not have to provide food, drink, access to communications, or accommodations.

If an airline denies passengers boarding for reasons outside its control, it must follow the communication requirements noted under "Situations within the carrier's control", above.

The airline must also make alternate travel arrangements, but these requirements are slightly different than the ones noted in the sections above.

Alternate travel arrangements

In re-booking passengers, the airline's goal is to help them complete their itineraries as soon as feasible.

Large Carrier

Large carriers must provide the passenger with a confirmed reservation on the next available flight they operate or operated by another carrier with which the large carrier has a commercial agreement. The new flight:

- may take any reasonable route from the airport where the passenger is located to the passenger's destination; and
- must depart within 48 hours of the end of the event that caused the airline to deny boarding to the passenger.

However, if the airline cannot accommodate the above, then it must provide the passenger with a confirmed reservation on the next available flight operated by any other airline. The new flight:

- may take any reasonable route to the passenger's original destination, from the airport where the passenger is located or another airport that is within reasonable distance of that airport; and
- if the new departure is from an airport other than one in which the passenger is located, the large carrier must provide transportation to that other airport.

Small Carrier

In the case of small carriers, the passenger is entitled to a confirmed reservation on the next available flight the small carrier operates, or operated by another carrier with which it has a commercial agreement. The flight may take any reasonable route from the same airport to the passenger's destination.

Refunds

There is no refund requirement in situations outside the carrier's control. However, if the airline's tariff includes a policy allowing a passenger to seek a refund of the remaining value of their unused ticket because they no longer wish to continue their travel or make use of the alternate travel arrangement offered, the airline may at any time provide this refund to affected passengers. If a passenger accepts such a refund, their journey ends and the airline has no further obligation towards them.

In a dispute with a passenger regarding denied boarding obligations, the onus is on the airline to prove the category in which the denied boarding falls and how it met its obligations.

It is recommended that airlines document the circumstances causing the denied boarding, the treatment and compensation they provided affected passengers, and how they communicated with them. This will be important information if any passenger brings forward a complaint in any of these areas.

XI. Conclusion

Being denied boarding causes the passenger great inconvenience. In the event that there are more passengers ready and available to board than there are seats that can be occupied on the aircraft, denying boarding to unwilling passengers should be a last resort. Calls for volunteers to give up their seat in exchange for benefits can resolve the situation quickly, to the satisfaction of everyone involved.

If an airline does have to deny boarding, it is that airline's responsibility to get the affected passengers to their destination as soon as is feasible. Unless the situation is outside the carrier's control, it must also ensure that passengers are comfortable while they wait, and are compensated for the inconvenience when required.

Annex A: Legislative and Regulatory References

Canada Transportation Act

86.11 (1) The Agency shall, after consulting with the Minister, make regulations in relation to flights to, from and within Canada, including connecting flights,

(a) respecting the carrier's obligation to make terms and conditions of carriage and information regarding any recourse available against the carrier, as specified in the regulations, readily available to passengers in language that is simple, clear and concise;

(b) respecting the carrier's obligations in the case of flight delay, flight cancellation or denial of boarding, including

(i) the minimum standards of treatment of passengers that the carrier is required to meet and the minimum compensation the carrier is required to pay for inconvenience when the delay, cancellation or denial of boarding is within the carrier's control,

(ii) the minimum standards of treatment of passengers that the carrier is required to meet when the delay, cancellation or denial of boarding is within the carrier's control, but is required for safety purposes, including in situations of mechanical malfunctions,

(iii) the carrier's obligation to ensure that passengers complete their itinerary when the delay, cancellation or denial of boarding is due to situations outside the carrier's control, such as natural phenomena and security events

Air Passenger Protection Regulations

Obligations when within carrier's control

Denial of boarding

12 (4) In the case of a denial of boarding, the carrier must

(a) provide passengers affected by the denial of boarding with the information set out in section 13;

(b) deny boarding in accordance with section 15 and provide the standard of treatment set out in section 16 to passengers affected by the denial of boarding;

(c) provide alternate travel arrangements or a refund, in the manner set out in section 17; and

(d) provide the minimum compensation for inconvenience for denial of boarding in the manner set out in section 20.

Information — cancellation, delay, denial of boarding

13 (1) A carrier must provide the following information to the passengers who are affected by a cancellation, delay or a denial of boarding:

- (a) the reason for the delay, cancellation or denial of boarding;
- (b) the compensation to which the passenger may be entitled for the inconvenience;
- (c) the standard of treatment for passengers, if any; and
- (d) the recourse available against the carrier, including their recourse to the Agency.

Communication every 30 minutes

(2) In the case of a delay, the carrier must communicate status updates to passengers every 30 minutes until a new departure time for the flight is set or alternate travel arrangements have been made for the affected passenger.

New information

(3) The carrier must communicate to passengers any new information as soon as feasible.

Audible and visible announcement

(4) The information referred to in subsection (1) must be provided by means of audible announcements and, upon request, by means of visible announcements.

Method of communication

(5) The information referred to in subsection (1) must also be provided to the passenger using the available communication method that they have indicated that they prefer, including a method that is compatible with adaptive technologies intended to assist persons with disabilities.

Denial of boarding — request for volunteers

15 (1) If paragraph 11(5)(b) or 12(4)(b) applies to a carrier, it must not deny boarding to a passenger unless it has asked all passengers if they are willing to give up their seat.

Passenger on aircraft

(2) The carrier must not deny boarding to a passenger who is already on board the aircraft, unless the denial of boarding is required for reasons of safety.

Confirmation of benefit

(3) If a carrier offers a benefit in exchange for a passenger willingly giving up their seat in accordance with subsection (1) and a passenger accepts the offer, it must provide the passenger with a written confirmation of that benefit before the flight departs.

Priority for boarding

(4) If denial of boarding is necessary, the carrier must select the passengers who will be denied boarding, giving priority for boarding to passengers in the following order:

- (a) an unaccompanied minor;
- (b) a person with a disability and their support person, service animal, or emotional support animal, if any;
- (c) a passenger who is travelling with family members; and
- (d) a passenger who was previously denied boarding on the same ticket.

Treatment when boarding is denied

16 (1) If paragraph 11(5)(b) or 12(4)(b) applies to a carrier, it must, before a passenger boards the flight reserved as part of an alternate travel arrangement, provide them with the following treatment free of charge:

- (a) food and drink in reasonable quantities, taking into account the length of the wait, the time of day and the location of the passenger; and
- (b) access to a means of communication.

Accommodations

(2) If the carrier expects that the passenger will be required to wait overnight for a flight reserved as part of alternate travel arrangements, the carrier must offer, free of charge, hotel or other comparable accommodation that is reasonable in relation to the location of the passenger, as well as transportation to the hotel or other accommodation and back to the airport.

Refusing or limiting treatment

(3) The carrier may limit or refuse to provide a standard of treatment referred to in subsection (1) or (2) if providing that treatment would further delay the passenger.

Compensation for denial of boarding

20 (1) If paragraph 12(4)(d) applies to a carrier, it must provide the following minimum compensation:

- (a) \$900, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by less than six hours;

(b) \$1,800, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours; and

(c) \$2,400, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more.

Payment

(2) The carrier must provide the compensation to the passenger as soon as it is operationally feasible, but not later than 48 hours after the time of the denial of boarding.

Estimated arrival time

(3) If the compensation is paid before the arrival of the flight reserved as part of alternate travel arrangements at the destination that is indicated on their ticket, that compensation is determined based on the flight's expected arrival.

Written confirmation

(4) If it is not possible to provide the compensation before the boarding time of the flight reserved as part of alternate travel arrangements, the carrier must provide the passenger with a written confirmation of the amount of the compensation that is owed.

Adjustment

(5) If the arrival of the passenger's flight at the destination that is indicated on their original ticket is after the time it was expected to arrive when the compensation was paid or confirmed in writing and the amount that was paid or confirmed no longer reflects the amount due in accordance with subsection (1), the carrier must adjust the amount of the compensation accordingly.