

Animals on flights and the need for more regulation: O'Connor



The absence of Canadian law around the transport of pets, therapy and service animals that travel alongside passengers on commercial flights is building to a perfect legal storm that could lead to litigation, says Toronto civil litigator [Sarah O'Connor](#).

"There needs to be more clearly defined regulations around animals on flights to protect the rights of those who require therapy and service animals, as well as for those with animal allergies," she tells [AdvocateDaily.com](#). "Such regulations would have to balance the rights of both and to take into account the duty to accommodate."

O'Connor, principal of [O'Connor Richardson Professional Corporation](#), weighs in on the issue after Delta Airlines permitted a passenger to travel with a turkey on a flight as an "emotional support animal."

The airline said it accommodated the turkey under the U.S.'s Air Carrier Access Act, which permits emotional support animals to accompany passengers with disabilities, so long as they have approval from a mental health professional, says the [Huffington Post](#).

"While we can't always accommodate all pets, Delta employees made a judgment call based in part on extensive documentation from the customer," says an airline spokesperson.

But O'Connor says issues can arise.

She notes the same [Huffington Post](#) article points to how a woman was told to leave a US Airways flight in 2014 after she travelled with a [pot-bellied pig aboard](#) as an emotional support animal. The pig was being disruptive and causing a smell in the cabin.

And while the United States has legislation surrounding this issue, Canada evidently does not — and that's an issue, says O'Connor.

Canada's [Air Transportation Regulations \(ATR\)](#) lay out the standards for airlines to use when allowing animals that provide disability-related assistance on flights.

"So it seems each airline is responsible for implementing these standards but Canada doesn't have a law around this," says O'Connor.

As a result, she says more clarity is needed on the subject.

In December 2015, a former Canadian soldier said she was discriminated against by Air Canada because the airline's travel policy excludes service animals that offer support to people with mental illness, reports [CBC](#).

The woman was given a medical discharge from the Armed Forces after she was diagnosed with anxiety and depression related to her military service. Air Canada failed to recognize the woman's cat as a support animal, even though the woman had a letter from her psychiatrist outlining the medical reasons she needs to travel with the animal, says the public broadcaster.

In January 2014, the same airline apologized to a soldier for a "misunderstanding" after Air Canada staff told her that her service dog, which helps her cope with PTSD, wasn't permitted to board a flight she had booked to attend her grandmother's funeral, says [CTV News](#).

She was told by Air Canada that her dog couldn't travel with her because Transport Canada did not recognize her PTSD as a disability requiring a service dog, says the article.

After that incident, the airline released a statement saying it has a policy to accept service animals for passengers with a number of disabilities that are not limited to physical impairments, says CTV. Passengers are required to submit a form filled out by their doctor and "professionally trained and harnessed" service animals are allowed on board, says the article.

O'Connor notes that perhaps most worrisome is there is no notification provided to passengers when an animal, such as a therapy or service dog, will be travelling aboard a flight.

And for those with severe phobias or allergies, this could be a problem, particularly if they haven't packed their epinephrine in their carry-on, she says.

"Airlines no longer serve nuts on board because they are concerned about anaphylactic shock, but what about people who are severely allergic to pet dander?" she asks.

"And if something happens, where does the liability lie? Is it liability to the animal owner? The airline? Without any advance notice of support animals on a flight there could be major problems.

And what are the accommodations for pilots and crew members who are allergic? What happens if there is an animal emergency on board a flight? Where does the liability lie if a flight is delayed and passengers miss their connections?"