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In the matter of the *Canada Labour Code (Part I—Industrial Relations)* and an application for review and for a declaration of sale of business filed pursuant to sections 18.1, 44, 45 and 46 of the *Code* by the Air Line Pilots Association, International, applicant; WestJet, an Alberta Partnership, and Sunwing Airlines Inc., respondents; Unifor, certified bargaining agent. (037237-C)

Further to the hearing held in the above-noted matter, before a panel of the Canada Industrial Relations Board (the Board) composed of Ginette Brazeau, Chairperson, sitting alone pursuant to section 14(3) of the *Canada Labour Code*, the parties will find enclosed Board order no. 1559-NB.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Paradis'.

Martine Paradis
Team Leader, Registry

Encl.

c.c.: Michael Church
Amy Kishek
Dave Steele
Kieran Clarke



Order No. 1559-NB

IN THE MATTER OF THE

Canada Labour Code

- and -

Air Line Pilots Association, International,

applicant/certified bargaining
agent,

- and -

WestJet, an Alberta Partnership,
Sunwing Airlines Inc.,
Calgary, Alberta,

employers,

- and -

Unifor,

certified bargaining agent,

- and -

WestJet Master Executive Council,
WestJet Encore Master Executive Council,
Unifor Local 7378,

intervenors.

WHEREAS the Canada Industrial Relations Board (the Board), by order no. 11359-U, certified the Air Line Pilots Association, International (ALPA) as the bargaining agent for a unit of pilots at WestJet, an Alberta Partnership (WestJet);

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AND WHEREAS a collective agreement is in force between ALPA and WestJet with a term expiring on December 31, 2026;

AND WHEREAS the Board, by order no. 10727-U, certified the National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), now known as Unifor, as the bargaining agent for a bargaining unit of pilots at Sunwing Airlines Inc. (Sunwing);

AND WHEREAS a collective agreement is in force between Unifor and Sunwing with a term expiring on November 30, 2024;

AND WHEREAS, on December 11, 2023, the Board received an application for review and for a declaration of sale of business pursuant to sections 18.1, 44, 45 and 46 of the *Canada Labour Code* (the *Code*) regarding the acquisition of Sunwing by WestJet;

AND WHEREAS the Board has previously declared that the acquisition of Sunwing by WestJet constitutes a sale of business for the purposes of section 44 of the *Code* and that WestJet is the successor employer (Board order no. 11896-U);

AND WHEREAS the Board, by letter dated May 15, 2024, informed the parties that it had determined it was appropriate to review the bargaining structure for pilots working at WestJet and Sunwing and that one consolidated unit of all pilots was appropriate for collective bargaining;

AND WHEREAS the Board also determined that there are no compelling reasons in this case to order a representation vote to determine which bargaining agent will represent the consolidated unit of pilots and that given it represents a large majority of pilots in the consolidated bargaining unit, ALPA would be the bargaining agent that will ultimately be certified to represent the pilots in that unit;

AND WHEREAS the Board invited written submissions on several questions and issues arising from the sale of business and the consolidation of the bargaining units and offered an opportunity to the parties to come to agreement on those questions and issues arising from the review, pursuant to section 18.1(2) of the *Code*;

AND WHEREAS the parties agree on a number of issues, including on a one-year extension of the collective agreement between Unifor and Sunwing, but disagree on the terms under which the extension of this collective agreement should be granted;

AND WHEREAS, the Board has carefully considered the written and oral submissions of the parties on the issue in dispute regarding the terms of the one-year extension and is of the view that the employers' proposal is fair and appropriate in the circumstances, thereby ensuring an orderly integration of the bargaining units and labour relations stability.

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NOW, THEREFORE, pursuant to its powers under section 18.1(3) and (4) of the *Code*, the Canada Industrial Relations Board makes the following orders:

1. The integration of the seniority lists of pilots at WestJet and Sunwing shall be determined by a sole arbitrator jointly selected by the parties, namely Eli Gedalof, with the following parameters:
 - (a) The parties to the arbitration of the seniority lists integration are ALPA, WestJet Master Executive Council, Unifor, Unifor Local 7378 and WestJet/Sunwing;
 - (b) WestJet Encore Master Executive Council will have status as an intervenor with full rights to participate in the arbitration, bearing equal costs as the other pilot union parties to the arbitration, and agrees to be bound by the existing briefing schedule and the result of the arbitration;
 - (c) The arbitrator's jurisdiction is limited to determining a fair and equitable integrated seniority list. In making this determination, factors to be considered, in no particular order and with no particular weight, shall include but not be limited to the following:
 - Career expectations
 - Longevity
 - Status and category
 - (d) The arbitration process, including the scheduling and briefing schedule, will be conducted as per the agreement of the parties;
 - (e) The arbitrator shall have all the powers that the Board would itself have in merging seniority lists under the *Code*;
 - (f) The award of the arbitrator will be final and binding on all parties participating in the arbitration.
2. The integrated pilot seniority list shall be produced to WestJet no later than October 30, 2024, for the primary purpose of transferring Sunwing pilots to WestJet over a transition period scheduled to be completed on or before November 30, 2025.
3. Pursuant to section 18.1(4)(d) of the *Code*, the Board extends the term of the collective agreement currently in force between Unifor and Sunwing to November 30, 2025, or until the last pilot covered by that collective agreement reports to a pilot position at WestJet, whichever occurs first.
4. The terms and conditions of the collective agreement between Unifor and Sunwing will continue to apply to Sunwing pilots until such time as they transfer to a WestJet pilot position.

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5. Effective December 1, 2024, the collective agreement between Unifor and Sunwing is amended as follows:

a. Salary Grid

The wages applicable to Sunwing pilots will be increased and aligned with the wages applicable to pilots at WestJet, corresponding to the Sunwing pilots' year pay rate.

The wage increase hereby ordered is without prejudice to any dispute between ALPA and WestJet regarding the recognition of Sunwing pilots' years of service with Sunwing upon their transfer to WestJet and their integration onto the collective agreement between ALPA and WestJet.

b. By-pass and Layoff

In the event that a Sunwing pilot

Has bid on and been awarded/assigned a WestJet pilot position, and
Has been selected by Sunwing to instead be retained at Sunwing,

The pilot shall be entitled to the following additional consideration:

Should a layoff take place at Sunwing impacting a by-passed pilot during the transition, the pilot shall be transferred to WestJet for the next monthly scheduling period and placed in the next available training session, or the pilot shall not be laid off and remain with Sunwing, as determined by the employers;

The above consideration shall take effect on the WestJet report date they were originally awarded/assigned and shall continue until their employment with Sunwing ceases.

6. The one-year extension of the term of the collective agreement between Unifor and Sunwing has the effect of foreclosing the process for the renewal of the collective agreement under the *Code*;
7. ALPA is to be recognized and certified by the Board on November 30, 2024, as the bargaining agent for pilots working at WestJet and at Sunwing and consequently, the bargaining rights of Unifor for the bargaining unit at Sunwing will be revoked at that time.
8. Any other outstanding issues related to the consolidation and integration of the bargaining units shall be addressed between ALPA and WestJet after November 30, 2024.

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9. The Board remains seized of this matter to deal with unresolved integration issues in accordance with section 18.1(3) and (4) of the *Code*.

ISSUED at Ottawa, this 30th day of July, 2024, by the Canada Industrial Relations Board.

A handwritten signature in black ink, appearing to read 'Ginette Brazeau', written in a cursive style.

Ginette Brazeau
Chairperson

Reference No.: File No. 037237-C