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Aer Lingus pilot said he delayed safety report for fear of 'retribution' from senior staff, tribunal hears

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Workplace Relations Commission

A tribunal has heard that an Aer Lingus pilot, who was stripped of command duties after his aircraft failed to pick up a navigation beacon on approach to Dublin Airport, wrote that he delayed reporting the incident because he feared “retribution” from senior personnel.

His barrister told a tribunal today that the pilot, Declan McCabe, was disciplined with a demotion from captain to flight officer in the wake of the June 2023 incident, because airline bosses were “unhappy my guy has blown the whistle in times past” in relation to safety matters.

Mr McCabe (53), who joined Aer Lingus as a pilot cadet in 1999, is pursuing complaints under the Protected Disclosures Act 2014, the Safety, Health and Welfare at Work Act 2005, and the Payment of Wages Act 1997 against Aer Lingus Ltd.

The complaints are denied by the airline.

Giving evidence at a hearing today, Mr McCabe said that on 8 June 2023, he and his first officer were flying an Airbus A320neo jet with 154 passengers and cabin crew on board into Dublin Airport when the aircraft “didn’t capture the localiser” – a radio beacon meant to help guide the aircraft on the right trajectory to the runway.

“The weather was clear; we could see the runway. If it was in cloud, you might consider doing a missed approach, come back around and complete the approach again,” he said.

Adjudicator John Harraghy asked the complainant to use a biro as a “model aeroplane” to illustrate the final approach on an imaginary line across the hearing room towards him.

Asked why he did not report the incident, he said that the Aer Lingus manual only made it mandatory to report a “false localiser capture”. He explained that this would involve a distorted, or “scalloped” signal giving an erroneous locator beacon along a different bearing to the intended approach path.

What happened on the day was a different situation with a different procedure, he said.

“What I done on the day was what I was supposed to do, and that’s written in the manual,” he said.

He said that in the circumstances, the question of whether or not to make a safety report was left to his own judgment, and he decided not to. He said he understood it to be a “known problem” at runway 10–L involving the Airbus A320 family, on foot of an internal airline briefing note to pilots.

“In my judgment there was no area where safety was compromised,” he said.

The tribunal heard that Captain Colm Wynne, a senior managing pilot at the airline, made contact with Mr McCabe by email eight days later, attaching correspondence from Air Nav Ireland in relation to the beacon incident, and asking Mr McCabe to “advise” so he could respond.

Mr McCabe said it was the first he had heard from Capt Wynne in 12 years, following what the complainant called an “outrageous” disciplinary process over a decade prior.

It was after he called in to say he was too fatigued to pilot an A320 jetliner, something he was required to do as a licensed pilot, he said.

In 2011, a process led by Capt Wynne found Mr McCabe had “shown a total disregard for the commercial interests of the company” and was “not of the standard of an Aer Lingus captain”, the complainant said.

The sanction was reduced on appeal to a final written warning, and he recovered his lost pay in a settlement of a Circuit Court lawsuit, Mr McCabe said.

However, the complainant’s evidence was that he had “no comfort that I couldn’t call in fatigued again” and remained in fear of “retribution” from Capt Wynne, who was subsequently promoted to flight operations safety manager.

Mr McCabe said he wrote directly to Air Nav Ireland and told the hearing he did not include Capt Wynne in his reply.

David Byrnes BL, appearing instructed by Isabella Nash of Setanta Solicitors, put it to his client that there was “no love lost” between himself and Captain Wynne. “After what happened in the past, I wouldn’t trust the man, no,” Mr McCabe replied.

Mr McCabe said he later filed an internal air safety report, within 30 minutes of being asked to do so by the company’s safety manager, Captain Conor Nolan.

As well as the contents of his original email to Air Nav Ireland, Mr McCabe included a further paragraph in the new report stating: “The report was delayed because I fear further retribution from certain flight operations personnel.”

Mr Byrnes said his client and the first officer were subsequently accused of entering the wrong beacon frequency, leaving the jetliner avionics hunting for the signal from a parallel runway.

Mr McCabe said he had been unable to rule that out during an initial safety investigation, but that a subsequent disciplinary hearing, there was “technical evidence” which “changed the narrative” – and pointed to a problem with the aircraft.

In a legal submission, Mr Byrnes said: “At the crux of this, Aer Lingus is unhappy my guy has blown the whistle in times past. He keeps piping up and asking when are all those matters going to be investigated. They weren’t.”

Tom Mallon BL, appearing for the airline instructed by Katie Rooney of Arthur Cox, said: “Aer Lingus makes no apologies whatsoever for putting safety first.

“There was an issue. Whether that issue was serious or minor... what we do know was that Mr McCabe decided not to report it. Maybe he was right,” Mr Mallon said.

He said Mr McCabe was asked “in the normal way” to give a report, but decided instead to go “directly” to Air Nav Ireland “and give them elaborate reasons why they were wrong”.

He argued that Aer Lingus had subsequently demoted Mr McCabe on foot of “a lengthy process at which he was appropriately accompanied and represented by colleagues as he wished; [and] exercised his right of appeal”.

“[Mr McCabe] still doesn’t seem to accept the errors of his ways as a captain,” he added.

Adjudicator John Harraghy has adjourned the matter overnight. The case is scheduled to continue tomorrow and for three more days next week.



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