

Citation: *R. v. Luxemburger*, 2014 YKTC 44

Date: 20140805
Docket: 14-04448
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before Her Worship Justice of the Peace Morrison Harvey

REGINA

v.

THOMAS ALEXANDER LUXEMBURGER

Appearances:

B. Bruce Warnsby
Thomas Alexander Luxemburger

Student at Law for the Territorial Crown
Appearing on his own behalf

REASONS FOR JUDGMENT

[1] MORRISON HARVEY J.P.T.C. (Oral): This is the matter of Thomas Luxemburger. There has been one witness called with regard to this matter, the officer who issued the ticket. Mr. Luxemburger, himself, has taken the stand and, as I have already said, disputes no facts of the ticket and, in fact, admits that he was parked in violation of the signage at the airport. What Mr. Luxemburger is seeking, in his words, is some guidance in terms of people that he believes might fall into a grey area.

[2] I think Judge Chisholm's decision, *R. v. McIntire*, 2013 YKTC 98, at para. 12, has dealt with certain aspects of your concerns.

... Mr. McIntire's frustration with the apparent double standard, as described by the security officer, of allowing vehicles which are not left unattended to remain in this zone for lengthy periods of time for loading or other purposes. It appears that discretion is being used in those situations, even though immediate pick-ups or drop-offs are not occurring, but not in the situation in which Mr. McIntire found himself. Although not a defence for those in Mr. McIntire's situation, it understandably leads to consternation.

[3] The immediate pick-up/drop-off zone in front of an airport terminal would require that someone be in attendance at the vehicle at all times in the event of an emergency situation, i.e., the airport bursts into flames and somebody has to be at those vehicles to move them immediately for the immediate passage of emergency vehicles. That is the intent of the signage. There is no signage that indicates a time limit that two minutes is acceptable or five minutes acceptable.

[4] In my view, the only defence to a charge such as this would be that of immediate necessity, a life-threatening defence that you had to park there, you had to leave your vehicle because there was basically some life-threatening event that was going to take place if you did not leave your vehicle there and attend to taking the person in.

[5] I completely understand the frustrations that many individuals may have parking at the Whitehorse airport, in terms of dropping off elderly parents. There is a zone immediately across from that area, which I know, as well as a handicap zone. There is no immediate parking for people who need assistance, so I understand that frustration.

[6] My guidance or comments that I could give to individuals coming before this Court is, as inconvenient as it may be, as frustrating as it may be, is to take another individual with them to assist that person into the airport. I am sorry, that is my only

words of wisdom that I can offer to you -- and take it up with the airport administration that there ought to be a zone where there is a five minute drop-off period, designate some area where you are allowed to park for five or 10 minutes unattended for those who need to assist individuals into the airport.

[7] Mr. Luxemburger, that is the only guidance I could offer you.

[OTHER MATTERS DISCUSSED]

[8] And on the basis of the facts before the Court, I have to make a finding of guilt with respect to the ticket.

[OTHER MATTERS DISCUSSED]

[9] The ticket amount is \$50 and there is a \$7 surcharge, seven days' time to pay. Any time between now and a week from now, you can pay that ticket.

MORRISON HARVEY J.P.T.C.