

the next day, to phone in and say that. Mr Thorington said that the claimant started by going through the roster for the last few duties and he had said that he had done some simulated duties, he had done a small positioning duty and then straight onto this quite long duty and he believed, as a result of that, it was a fatiguing set of duties and, therefore, inappropriate for him to do the last remaining duty.

50. Mr Thorington spoke of discussions he had with Mr Scadeng on 6th May. He is recorded as saying: "it was my intent as DFOM for me to pass to Roger for whatever consideration that he might wish to have, because I thought it was the right thing to do based on feedback from Rostering and Crewing, not just about the fitness to operate or not, but the way Mike had conducted himself that preceding duty."

51. Mr Thorington said "the perception I got was that throughout day, even at check in was told by Martin that Mike had made it clear that it was not his intention to operate discretion and that the decision wasn't made on the grounds of was I fit? was the crew fit?, it was more to do with the belief that the flight had been rostered inappropriately and the perception that as a result of that he was making a decision, not as a result of am I fit for duty". He said the feedback he got from Gareth and Martin was that there was a little bit of brinkmanship, that the claimant wanted the company to tell him not to come back to Manchester but to go somewhere else and from their perspective it was very clear they wanted to come back to Manchester and, if not fit to, tell them when and where and they would give some guidance but would not tell to go to one place or another. Mr Thorington said, as a consequence, he would have liked to have some feedback to the claimant about his managing of the situation, the implication it had on the rest of the organisation. He continued that "the real dilemma was the discussion I had with him the night before and decision making was not aligned to what our expectations of what the decision making process would be from a Commander".

52. Mr Thorington said he had a discussion with Roger Scadeng the next morning as Mr Scadeng wanted to know if the claimant was going to operate the subsequent flight.

53. Phil Lawrence, Senior First Officer, who was the claimant's Co-Pilot on 6th May, said that the claimant had talked about not going into discretion "because of his previous duties and the next duty he was unlikely to go into discretion". Mr Lawrence said that he did not recall the claimant saying that he was going into discretion today, therefore, he was not going to do his duty tomorrow.

54. By letter dated 4th June 2014, the claimant was asked to attend an investigatory meeting on 10th June. Jo Burke wrote that the meeting had been arranged because they were in the process of investigating an allegation of refusal to operate a roster duty TCX2684/TCX2685 on 7th May 2014. She wrote that, during the meeting, in order to gather the full facts, they would need to ask questions relating to his previous duty on 6th May.

55. The investigation meeting took place on 12th June so that the claimant could be accompanied by Richard Manashi, the claimant's BALPA representative. The meeting was conducted by Jo Burke who was accompanied by Karen Harragan, HR Consultant. Ian White, a Scheduling Specialist with BALPA, joined the meeting