



Citation: *Lounes, doing business as Le Franco fête v. Canada (Minister of Public Safety and Emergency Preparedness)*, 2017 CART 1

Date: 20170113
Dockets: CART/CRAC-1935

BETWEEN:

Hadi Lounes, doing business as Le Franco fête,

Applicant

- and -

Minister of Public Safety and Emergency Preparedness,

Respondent

[Translation of the official version in French]

BEFORE: Chairperson Donald Buckingham

**WITH: Hadi Lounes, self-represented; and
Tara-Lee Fraser and Michèle Hobbs, representatives for the Respondent**

In the matter of an application made by the applicant, pursuant to subsection 13(2) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, for a review of a Minister's decision upholding a violation of the *Health of Animals Regulations* or of the *Plant Protection Regulations*.

DECISION

The Canada Agricultural Review Tribunal ORDERS that the application for a review of the Minister's Decision of an unknown date (CART/CRAC-1935) requested by the applicant, Hadi Lounes, doing business as Le Franco fête, IS INADMISSIBLE and, pursuant to this order, IS DISMISSED.

By written submissions only.

OVERVIEW

[1] On November 23, 2016, Hadi Lounes, indicating that he does business as Le Franco fête (Mr. Lounes), requested that the Canada Agricultural Review Tribunal (Tribunal) review a Minister's decision received pursuant to subsection 13(2) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (AMP Act). Mr. Lounes provided little information in his request beyond his email contact, but presumably his request (Request for Review) related to a recent ministerial decision finding that he had violated a provision of the *Health of Animals Regulations* (HA Regulations) or of the *Plant Protection Regulations* (PP Regulations).

[2] For his request to be admissible, Mr. Lounes must meet an admissibility threshold by offering some permissible basis on which he might succeed in the matter before the Tribunal.

[3] For the reasons that follow, I find Mr. Lounes has failed to meet this admissibility threshold for the Request for Review he has initiated.

REASONS FOR INADMISSIBILITY OF REQUESTS

Issue

[4] There is only one issue in this case: Did Mr. Lounes meet the Tribunal's admissibility threshold by offering some permissible basis upon which he might succeed in this matter?

Analysis and Applicable Law

[5] The Tribunal is an expert and independent body constituted by Parliament pursuant to the *Canada Agricultural Products Act*, R.S.C., 1985, c. 20 (4th Supp.) (CAP Act) and its jurisdiction consists of responding to requests to review matters arising from the issuance of agriculture and agri-food administrative monetary penalties.

[6] The AMP Act provides for a review by the Tribunal of a first-instance decision made by the Minister (subsection 12(2) and paragraph 13(2)(b) of the AMP Act).

[7] Powers given to the Tribunal by Parliament in conducting this exercise are set out in paragraph 14(1)(a) of the AMP Act, "*After concluding a review requested under this Act, the Tribunal shall, by order, as the case may be, (a) confirm, vary or set aside any decision of the Minister...*".

[8] A request for review is a right that Parliament extends to applicants which allows them, for a very limited expenditure of time and money, to have their notices of violation, or Minister's decisions concerning such notices of violations, reviewed by an independent body. However, when played out to its full conclusion, including the filing of pleadings, the holding of a hearing and the rendering of a decision, considerable time and money from all parties will be expended. For this reason, legislators have placed some basic requirements on applicants that they must meet for their rights to be preserved. Where the applicant does not meet the requirements of the AMP Act, the AMP Regulations and the *Rules of the Review Tribunal*

(Canada Agricultural Review Tribunal) (Tribunal Rules), the Tribunal may rule that the applicant's Request for Review is inadmissible.

[9] Permissible reasons that an applicant might raise to set aside a Minister's decision include a finding by the Tribunal that the alleged violation did not occur or that the person named in the Notice of Violation is not the person who committed the violation.

[10] In the present case, the only communication from Mr. Lounes was his formal Request for Review received by the Tribunal on November 23, 2016. This communication contains his email contact information but little more, and certainly outlines no reasons for his Request for Review.

[11] After two separate requests from the Tribunal to Mr. Lounes to provide additional information, none has been forthcoming, not even a copy of the Minister's Decision or of the Notice of Violation underlying the Minister's decision he is contesting.

[12] There is therefore no evidence received from Mr. Lounes that raises any concerns that the Minister may have erred in his decision upholding the issuance of a Notice of Violation. As such, there is no basis before the Tribunal on which Mr. Lounes could possibly succeed in his request to have the Tribunal rule that the Minister erred in his findings that an alleged violation was committed.

Disposition

[13] The Tribunal orders that Mr. Lounes's Request for Review is inadmissible and is dismissed. Furthermore, by operation of subsection 9(3) of the AMP Act, Mr. Lounes is deemed to have committed the violation indicated in the Notice of Violation underlying the Minister's decision and if that Notice of Violation was with Penalty, then the indicated penalty amount is now due to the Agency.

Dated at Ottawa, Ontario, on this 13th day of January, 2017.

Dr. Donald Buckingham, Chairperson