



Citation: *Wilson v. Canada (Canadian Food Inspection Agency)*, 2013 CART 25

Date: 20130823
Docket: CART/CRAC-1738

BETWEEN:

Tom Wilson, Applicant

- and -

Canadian Food Inspection Agency, Respondent

Before: Chairperson Donald Buckingham

**With: Tom Wilson, self-represented; and
Ms. Irene Côté, representative for the respondent**

In the matter of an application made by the applicant, pursuant to subsection 8(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, for a review of a violation of section 176 of the *Health of Animals Regulations*, alleged by the respondent.

DECISION ON ADMISSIBILITY

[1] The Canada Agricultural Review Tribunal (Tribunal) ORDERS that the application for a review of the Notice of Violation requested by the applicant, Mr. Tom Wilson (Wilson), pursuant to subsection 8(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, in relation to the Canadian Food Inspection Agency (Agency), alleging that the applicant violated section 176 of the *Health of Animals Regulations*, IS INADMISSIBLE and is, pursuant to this order, DISMISSED.

By written submissions,
Made July 8 to August 20, 2013.

REASONS FOR DECISION ON INADMISSIBILITY

[2] Notice of Violation #1314ON0514, dated June 3, 2013, alleges that Wilson, on December 20, 2012, between Corunna and Guelph, Ontario, moved or caused the movement of an animal or carcass of an animal not bearing an approved tag from its farm of origin contrary section 176 of the *Health of Animals Regulations*.

[3] The Notice of Violation was deemed to have been served by the Agency on Wilson on June 13, 2013. The Notice of Violation indicates to Wilson that the alleged violation is a "minor violation" under section 4 of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations (Regulations)*, for which a warning is issued and there is no monetary penalty attached to the violation.

[4] In a registered letter sent July 8, 2013 (received by the Tribunal on July 10, 2013), Wilson requested a review by the Tribunal of the facts of the violation, in accordance with subsection 8(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act (Act)*. The text of his request for review reads as follows: "After reviewing the ' NOTICE OF VIOLATION ' that I received on June 13th, I have two questions that I would like to have the Review Tribunal answer for me. Therefore at this time I am requesting that I have an oral hearing into this matter to have my questions answered. Thankyou in advance for your time in this matter." [Sic for the entire quotation].

[5] In a letter dated July 12, 2013, Tribunal staff informed Wilson that the Tribunal had received his request for review in this matter but that it "...requires more information from the applicant in order to proceed with this request. Rule 34 of the Tribunal Rules requires the applicant to provide "reasons for the request". The applicant's letter of July 08, 2013, provides no such reasons. The Tribunal invites the applicant to provide such reasons for the request on or before July 26, 2013...". The letter also invited Wilson to consult the attached Practice Note #11 entitled *Determining Admissibility of Request for Review and Practices Regarding the Exchange of Documents Amongst Applicants, Respondents and the Tribunal* (issued May 1, 2013), when preparing those reasons.

[6] When no additional submissions were received from Wilson by July 26, 2013, Ms. Lise Sabourin (Sabourin), Administration, Finances and Registry Services Coordinator at the Tribunal, telephoned and sent an email on July 31, 2013, to determine if Wilson was prepared to respond to the Tribunal's invitation or was not pursuing the matter further. On August 7, 2013, by formal letter, Sabourin informed Wilson that if the Tribunal did not receive the information it had requested in its July 12, 2013 letter, by August 16, 2013, the Tribunal would consider his request for review inadmissible and that, as a result, his request for review rights in this matter would be extinguished by a formal order to that effect. No further communications were received by the Tribunal from Wilson before the August 16, 2012 deadline.

[7] After expiration of the deadline, by email to Sabourin dated August 20, 2013, Wilson wrote: "Our cattle industry is trying to get through some very difficult times right now. When I see CFIA and their inspectors spending time and energy on files like this, I see that our industry will continue to struggle into the future until we can all sit down together and have a working plan that will work for our industry and for CFIA. At this time you may close this file, but I have a feeling that you may be in touch with me in future. Thanks Tom".

[8] Rule 34 of the *Rules of the Review Tribunal (Agriculture and Agri-Food)* (*Rules*) states:

"An applicant who requests a review by the Tribunal must indicate the reasons for the request, the language of preference and, if the notice of violation sets out a penalty, whether or not a hearing is requested."

[9] Where the applicant does not meet the requirements of the *Act*, the *Regulations* and the *Rules*, the Tribunal may rule that the applicant's request for review is inadmissible.

[10] A request for review is a right which Parliament has extended to applicants which allows them, for a very limited expenditure of time and money, to have their Notice of Violation 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 *Act*, the *Regulations* and the *Rules*, the Tribunal may rule that the applicant's request for review is inadmissible.

[11] The Tribunal has considered these matters in light of the content of the *Agriculture and Agri-Food Monetary Penalties Regulations*; the *Rules of the Review Tribunal (Agriculture and Agri-Food)*; applicable jurisprudence; fairness; and information provided by the parties. It is also mindful of the recent decision in *In the Matter of Section 14 of the Agriculture and Agri-Food Monetary Penalties Regulations, SOR/2000-187*, 2013 FCA 130, where the Federal Court of Appeal implies that the Tribunal cannot read in, or relax, requirements set out in *Regulations*.

[12] The Tribunal has attempted, on at least two formal occasions, to assist Wilson in perfecting his request for review, but to no avail. In the circumstances, the Tribunal orders that Wilson's request for review dated July 8, 2013, is inadmissible and is hereby dismissed and his file at the Tribunal closed.

[13] Consequently, by operation of subsection 8(2) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, which states:

8. (2) Where a person who is served with a notice of violation that contains a warning does not request a review under subsection (1) in the prescribed time and manner, the person is deemed to have committed the violation identified in the notice of violation,

Wilson is deemed to have committed the violation set out in the Notice of Violation with Warning #1314ON0514 issued June 3, 2013.

[14] The Tribunal wishes to inform Mr. Wilson that this violation is not a criminal offence. After five years, Mr. Wilson will be entitled to apply to the Minister to have the violation removed from the records, in accordance with section 23 of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*:

23. (1) Any notation of a violation shall, on application by the person who committed the violation, be removed from any records that may be kept by the Minister respecting that person after the expiration of five years from

(a) where the notice of violation contained a warning, the date the notice was served, or

(b) in any other case, the payment of any debt referred to in subsection 15(1),

unless the removal from the record would not in the opinion of the Minister be in the public interest or another notation of a violation has been recorded by the Minister in respect of that person after that date and has not been removed in accordance with this subsection

Dated at Ottawa, Ontario, this 23rd day of August, 2013.

Dr. Don Buckingham, Chairperson