



Citation: *Adebogun v. Canada (Minister of Public Safety and Emergency Preparedness)*,
2018 CART 2

Date: 20180328
Docket: CART | CRAC-1867

BETWEEN:

Olukayode Adebogun,

APPLICANT

- and -

Minister of Public Safety and Emergency Preparedness,

RESPONDENT

BEFORE: Luc Bélanger
Chairperson

WITH: Mr. Olukayode Adebogun, for the Applicant; and
Mr. Pierre Dastous, for the Respondent

In the matter of a request made by the Applicant, pursuant to section 13 of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#), for a review by the Tribunal of the Minister's decision CS-70383, dated September 14, 2015, holding that the Applicant violated section 40 of the [Health of Animals Regulations](#).

DECISION

The Canada Agricultural Review Tribunal, by ORDER, sets aside Minister's decision CS-70383, dated September 14, 2015, and holds that the Applicant, Olukayode Adebogun, is not liable for payment of the prescribed monetary penalty of \$800.

By written submissions only.

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I. Overview

[1] On November 25, 2015, Mr. Olukayode Adebogun's (Mr. Adebogun) request for review of Minister's decision CS-70383 was declared inadmissible by the Canada Agricultural Review Tribunal (Tribunal) because it was determined to have been filed outside of the required statutory period ([*Adebogun v. Canada \(Minister of Public Safety and Emergency Preparedness\)*, 2015 CART 24](#), at paragraph 17). Mr. Adebogun requested a judicial review of this inadmissibility decision to the Federal Court of Appeal (FCA). On December 8, 2017, the FCA found that the Tribunal had erred in its calculation of the statutory time limit for filing and, as such, the request for review was determined to be admissible for a hearing on the merits ([*Adebogun v. Canada \(Attorney General\)*, 2017 FCA 242](#), at paragraphs 12 and 13).

II. Background

[2] On January 22, 2018, the Tribunal requested a certified Minister's record of all documents before the Minister of Public Safety and Emergency Preparedness (Minister) at the time of the Minister's first instance decision. The Canada Border Services Agency (CBSA), which represents the Minister in these matters, was given until February 21, 2018, to file its certified Minister's record. The CBSA subsequently asked for an extension and was granted until March 7, 2018, to provide its certified Minister's record.

[3] On March 6, 2018, Mr. Ron Anglehart, on behalf of the CBSA, confirmed that the CBSA consents to the Tribunal issuing an order overturning the Minister's decision, which had upheld the issuance of Notice of Violation YQR-13-0001, with penalty of \$800, to Mr. Adebogun.

[4] The CBSA's letter stated the following:

Please be advised that after careful review of the ministerial review file, the CBSA consents to the issuance of an order by the Tribunal to overturn the Minister's decision to uphold the [Notice of Violation] and that collection action will not be taken regarding this penalty. This consent should not be construed as constituting any position or admission by the CBSA on the merits of the Applicant's request for review.

III. Analysis

[5] The Tribunal has a long-standing practice note—[*Practice Note #7—Withdrawing Cases*](#)—which clearly explains the appropriate procedure for withdrawing cases. It would have been preferable for the CBSA to inform the Tribunal and Mr. Adebogun that it was withdrawing the case and electing not to take any further action in connection with the issued Notice of Violation. This is a best practice followed by Canadian Food Inspection Agency which appears regularly before this tribunal. Had the CBSA followed the established procedure, the Tribunal would have simply informed the parties that it considered the matter settled and the case closed. This approach would have avoided the Tribunal being required to issue a formal decision in the matter.

IV. Order

[6] In light of the above consent, the Tribunal, by ORDER, sets aside Minister's decision CS-70383 and holds that Mr. Adebogun is not liable for payment of the prescribed monetary penalty of \$800.

Dated at Ottawa, Ontario, on this 28th day of March, 2018.

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal