



Citation: *Ibrahim v Minister of Public Safety and Emergency Preparedness*, 2020 CART 25

Docket: CART – 2170

BETWEEN:

SOAAD IBRAHIM

APPLICANT

- AND -

**MINISTER OF PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS**

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

**WITH: Mr. Gabriel Y. L. Chen, representing the Applicant; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: December 3, 2020

WRITTEN SUBMISSION ONLY

DECISION

The Canada Agricultural Review Tribunal, by ORDER, confirms the settlement agreement reached by the parties.

1. OVERVIEW

[1] This matter concerns a request by the Applicant to the Canada Agricultural Review Tribunal (Tribunal) for review of the Minister's decision 19-02668, confirming the Notice of Violation (NOV) 7011-19-0683, pursuant to paragraph 13(2)(b) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act).

[2] On September 9, 2019, following her arrival at the Calgary International Airport, Ms. Ibrahim allegedly imported to Canada an animal or thing, being raw duck (1.5 kg), without a certificate or license to do so and did not declare these products to a Border Services Officer. Consequently, the Canada Border Services Agency (Agency) issued her a NOV with a penalty of \$1,300 for what is classified as a very serious violation of subsection 16(1) of the [Health of Animals Act](#).

2. PROCEDURAL HISTORY

[3] On April 3, 2020, the Minister's decision confirming the NOV was communicated to Ms. Ibrahim via email.

[4] On April 15, 2020, Ms. Ibrahim applied to the Tribunal for a review of the Minister's decision pursuant to paragraph 13(2)(b) of the [AAAMP Act](#).

[5] On June 12, 2020, the Tribunal determined that the request for review was admissible.

3. OFFER TO SETTLE

[6] On June 29, 2020, Ms. Ibrahim was presented a written offer to settle this case. The offer proposes to amend the NOV originally issued with a penalty of \$1,300, to a NOV with warning, without the monetary penalty.

[7] Ms. Ibrahim communicated her acceptance to this offer via email, received by the Tribunal on July 8, 2020.

[8] As explained in the Agency's offer to settle, a violation will remain in the Agency's records for the next six years from the date of violation.

[9] Ms. Ibrahim must understand that all travelers entering into Canada may be subject to secondary customs examinations by the Agency, regardless of previous enforcement action.

4. THE SETTLEMENT

[10] The Tribunal has the sole and exclusive jurisdiction to hear and determine all questions of fact or law regarding any matter over which it is given jurisdiction under the [AAAMP Act](#) or any Act of Parliament, pursuant to subsection 38(1) of the [AAAMP Act](#).

[11] Moreover, as a court of record, the Tribunal is vested with additional powers to the ones explicitly conferred by its enabling legislation. These powers are available to the Tribunal as they are necessary to fulfill the purpose and objective of the statutory regime created by the legislature.¹ This ensures the enforcement of its orders and other matters necessary to duly exercise its jurisdiction pursuant to subsection 41(2) of the [AAAMP Act](#).

[12] The Tribunal does not have the explicit authority to vary a NOV with penalty to a NOV without penalty. However, the Tribunal has the jurisdiction by necessary implication and practical necessity to give effect to the settlement agreement as established in [Atkinson](#)².

[13] Given these powers provided to me by statute, I agree that the most just and efficient outcome in this case is to amend the NOV with penalty of \$1,300 to a NOV without penalty in accordance with the agreed settlement by the parties.

[14] This is not an order of the Tribunal which can be the subject of a judicial review application pursuant to subsection 38(2) of the [AAAMP Act](#).

[15] This settlement agreement constitutes a final settlement of the rights of both parties in relation to docket CART - 2170 and the events which occurred on September 9, 2019.

[16] This settlement should not be cited as a precedent or otherwise relied on except in relation to the current NOV.

5. ORDER

[17] As requested by the parties and pursuant to the powers conferred to me, I confirm, by **ORDER**, the settlement agreement.

[18] I wish to inform Ms. Ibrahim that this violation is not a criminal offence. After five years, she may apply to the Minister of Public Safety and Emergency Preparedness to have the violation removed from the records, in accordance with section 23 of the [AAAMP Act](#).

¹ [ATCO Gas & Pipelines Ltd. v. Alberta \(Energy & Utilities Board\)](#), 2006 SCC 4 at para 51.

² [Atkinson v. Canada \(Minister of Public Safety and Emergency Preparedness\)](#), 2018 CART 3.

Dated at Ottawa, Ontario, on this 3rd day of December 2020.

(Original signed)

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal