



Citation: *Bhuiyan v Minister of Public Safety and Emergency Preparedness*, 2021 CART 13

Docket: CART – 2174

BETWEEN:

MD SHAHJAHAN BHUIYAN

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

**WITH: Mr. Md Shahjahan Bhuiyan, representing himself; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: April 21, 2021

DECISION

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

1. INTRODUCTION

[1] Mr. Bhuiyan requested a review by the Canada Agricultural Review Tribunal (Tribunal) of the Minister of Public Safety and Emergency Preparedness (Minister)'s decision # 20-00544 upholding the Notice of Violation # 4971-20-0308 (Notice) with a penalty of \$1300 issued by the Canada Border Services Agency (Agency). The Notice alleges that on February 14, 2020, Mr. Bhuiyan failed to present 1.5 Kg of Anchor Whole Milk Powder for inspection upon entering Canada at the Toronto Pearson International Airport, contrary to subsection 16(1) of the [*Health of Animals Act*](#).

2. THE SETTLEMENT

[2] On December 4, 2020, the Minister rendered the decision # 20-00544 regarding the review of the Notice # 4971-20-0308. The decision was delivered to Mr. Bhuiyan on December 10, 2020.

[3] On December 15, 2020, Mr. Bhuiyan applied to have the Minister's decision reviewed by the Tribunal.

[4] On February 3, 2021, the Tribunal determined that the request for review was admissible.

[5] On March 1, 2021, the Agency made Mr. Bhuiyan a written offer to settle this case by amending the Notice originally issued with a penalty of \$1300 to a Notice with warning, without monetary penalty.

[6] Mr. Bhuiyan accepted this offer via his representative by email on March 2, 2021.

[7] The Agency's settlement offer noted that the Notice will remain in the Agency's records for a period of six years from the date of the Notice. In addition, the existing record of the Notice may be considered in the event of any future instances of non-compliance.

[8] This settlement constitutes a final settlement of the rights of both parties in relation to docket CART-2174 and the events which occurred on February 14, 2020.

[9] This settlement should not be cited as a precedent or otherwise relied on except in relation to the Notice in this case.

3. THE TRIBUNAL JURISDICTION TO GIVE EFFECT TO A SETTLEMENT AGREEMENT

[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 [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMPA) or any Act of Parliament.¹

[11] The Tribunal is a court of record² and has powers over all matters necessary or proper for the due exercise of its jurisdiction and to fulfil the purpose and objective of the statutory regime.

[12] The [Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)](#) (Rules) are interpreted and applied in order to permit the just, most expeditious and least expensive conduct of proceedings. The Tribunal may determine any procedural matter not provided for in the [Rules](#) in a manner consistent with the [Rules](#).

[13] The Tribunal does not have the explicit authority to vary a Notice with penalty to a Notice without penalty. However, the Tribunal has the jurisdiction by necessary implication and practical necessity to give effect to the settlement agreement as demonstrated in the Tribunal's decision in [Atkinson](#)³.

4. ORDER

[14] The Tribunal confirms, by **ORDER**, the settlement agreement, including the Agency amending the Notice originally issued with a penalty of \$1300 to a Notice with warning, without monetary penalty.

[15] The Tribunal informs Mr. Bhuiyan that this Notice is not a criminal offence. After five years, he may apply to the Minister of Public Safety and Emergency Preparedness to have the Notice removed from the records, in accordance with section 23 of the [AAAMPA](#).

Dated at Ottawa, Ontario, on this 21st day of April 2021.

(Original signed)

Luc Bélanger
Chairperson

¹ [Agriculture and Agri-Food Administrative Monetary Penalties Act \(S.C. 1995, c. 40\)](#), s 38(1) [AAAMPA].

² AAAMPA, *ibid.*, s 41.

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

Canada Agricultural Review Tribunal