



Citation: *Tifow v Canada Border Services Agency*, 2021 CART 12

Docket: CART – 2163

BETWEEN:

MOHAMED TIFOW

APPLICANT

- AND -

CANADA BORDER SERVICES AGENCY

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

**WITH: Mr. Mohamed Tifow, represented by Ms. Najma Awale; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: April 9, 2021

DECISION

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

1. INTRODUCTION

[1] Mr. Tifow requested a review by the Canada Agricultural Review Tribunal (Tribunal) of the Notice of Violation # 4971-20-0350 (Notice) with a penalty of \$800 issued by the Canada Border Services Agency (Agency). The Notice alleges that on February 18, 2020, Mr. Tifow failed to present wood sticks for inspection upon entering Canada, contrary to section 39 of the [Plant Protection Regulations](#).

[2] On April 3, 2020, the Tribunal determined that the request for review was admissible.

2. THE SETTLEMENT

[3] On February 5, 2021, the Agency made Mr. Tifow a written offer to settle this case by amending the Notice originally issued with a penalty of \$800 to a Notice with warning, without monetary penalty.

[4] Mr. Tifow accepted this offer via his representative by email on February 18, 2021.

[5] 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.

[6] This settlement constitutes a final settlement of the rights of both parties in relation to docket CART-2163 and the events which occurred on February 18, 2020.

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

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

[8] 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](#) (AAAMP Act) or any Act of Parliament.¹

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

[9] 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.

[10] 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*](#).

[11] 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

[12] The Tribunal confirms, by **ORDER**, the settlement agreement, including the Agency amending the Notice originally issued with a penalty of \$800 to a Notice with warning, without monetary penalty.

[13] The Tribunal informs Mr. Tifow 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 9th day of April 2021.

(Original signed)

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal

² [*Ibid.* s 41.](#)

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