



Citation: *Zhang v Minister of Public Safety and Emergency Preparedness*, 2021 CART 21

**Docket: CART-2021-BMR-017**

**BETWEEN:**

**ZANQING ZHANG**

**APPLICANT**

**-AND-**

**MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS**

**RESPONDENT**

**BEFORE: Luc Bélanger, Chairperson**

**WITH: Mr. Zanqing Zhang, the Applicant; and  
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

**DECISION DATE: August 5, 2021**

**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 for review of the ministerial decision # 2103611 upholding the Notice of Violation # 8212-20-0617 (Notice) by Mr. Zhang to the Canada Agricultural Review Tribunal (Tribunal), pursuant to paragraph 13(2)(b) of the [\*Agriculture and Agri-Food Administrative Monetary Penalties Act\*](#) (AAAMP Act).

[2] On November 5, 2020, following his arrival at the Vancouver International Airport, Mr. Zhang failed to present while allegedly importing beef jerky. Consequently, the Canada Border Services Agency (Agency) issued him a Notice for violating section 16(1) of the [\*Health of Animals Regulations\*](#).

## **2. PROCEDURAL HISTORY**

[3] Mr. Zhang first applied to the Minister of Public Safety and Emergency Preparedness for a review of the Notice #8212-20-0617.

[4] On May 7, 2021, the Minister of Public Safety and Emergency Preparedness sent the ministerial decision # 2103611 to Mr. Zhang, upholding the original Notice with the monetary penalty in its full amount of \$1 300.

[5] On May 5, 2021, Mr. Zhang's request for review of the ministerial decision was received by the Tribunal.

## **3. OFFER TO SETTLE**

[6] On June 29, 2021, the Tribunal sent letters to the Agency and Mr. Zhang notifying them that Mr. Zhang's request for review was admissible.

[7] On July 21, 2021, the Agency presented a written offer to settle the aforementioned case concerning Mr. Zhang, offering to replace the Notice originally issued with a penalty of \$1 300 to a Notice with warning and no monetary penalty.

[8] Mr. Zhang communicated his acceptance to this offer via email, received by the Tribunal on July 21, 2021.

[9] As explained in the Agency's offer to settle, their systems will reflect that a settlement has been reached and confirm the removal of the penalty amount.

[10] Mr. Zhang must understand that all travelers entering into Canada may be subject to secondary examinations by the Agency, regardless of previous enforcement action.

[11] Furthermore, I wish to reiterate to Mr. Zhang that the introduction of undeclared food, plant or animal products into Canada can result in serious risk to our plant and animal health and can endanger our food supply, agriculture, economy, environment and even our own wellbeing.

#### **4. THE SETTLEMENT**

[12] 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 section 38(1) of the [AAAMP Act](#).

[13] 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.<sup>1</sup> This ensures the enforcement of its orders and other matters necessary to duly exercise its jurisdiction pursuant to section 41(2) of the [AAAMP Act](#).

[14] The Tribunal does not have the explicit authority to replace 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 established in [Atkinson](#)<sup>2</sup>.

[15] Given these powers provided to me by statute, I agree that the most just and efficient outcome in this case is to amend the Notice with a penalty of \$1 300 to a Notice with warning and no monetary penalty.

[16] This settlement agreement constitutes a final settlement of the rights of both parties in relation to CART-2021-BMR-017 and the events which occurred on November 5, 2020.

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

#### **5. ORDER**

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

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

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

[19] I wish to inform Mr. Zhang 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 [AAAMP Act](#).

Dated at Ottawa, Ontario, on this 5<sup>th</sup> day of August 2021.

(Original signed)

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Luc Bélanger  
Chairperson  
Canada Agricultural Review Tribunal