

Canada Agricultural
Review Tribunal



Commission de révision
agricole du Canada

Citation: *Furman v Canada Border Services Agency*, 2021 CART 27

Docket: CART-2021-BNOV-028

BETWEEN:

ROMAN FURMAN

APPLICANT

- AND -

CANADA BORDER SERVICES AGENCY

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

**WITH: Mr. Roman Furman, representing himself; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: September 17, 2021

1. INTRODUCTION

[1] This matter concerns the request for review of Notice of Violation (Notice) # 8212-21-0313 pursuant to subsection 9(2)(c) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act).

[2] The issue is to determine the admissibility of this request. I must assess whether or not Mr. Furman satisfies the admissibility threshold established by the [AAAMP Act](#), the [Agriculture and Agri Food Administrative Monetary Penalties Regulations](#) (AAAMP Regulations) and the [Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)](#) (Tribunal Rules).

[3] On May 30, 2021, Mr. Furman was served with this Notice at the Vancouver International Airport for having allegedly failed to present three pork sausages and one piece of pork flank in his possession upon entering the country. In doing so, he contravened subsection 16(1) of the [Health of Animals Act](#) (HA Act). Since this violation is classified as “Very Serious”, the Notice was served with a \$1,300 monetary penalty.

[4] For the following reasons, in accordance with section 32 of the [Tribunal Rules](#), I find Mr. Furman’s request for review is inadmissible since a copy of the request was not sent by registered mail within the time limit as prescribed by subsection 11(2) of the [AAAMP Regulations](#). Therefore, Mr. Furman is deemed to have committed the violation in accordance with section 9 of the [AAAMP Act](#).

2. BACKGROUND

[5] On July 2, 2021, a request for review of the Notice was received by the Canada Agricultural Review Tribunal (Tribunal) which Mr. Furman submitted via email two days earlier. The request contained Mr. Furman’s written submission and an electronic copy of the Food, Plants and Animals (FPA) Interception Receipt issued by the Canada Border Services Agency (Agency).

[6] On July 2, 2021, the Tribunal sent a first acknowledgement letter to both parties requesting them to comply with rules 30 and 31 of the [Tribunal Rules](#) on or before July 19, 2021. Additionally, Mr. Furman was urged to comply with section 13 of the [Tribunal Rules](#) before July 19, 2021 by sending a copy of the request via registered mail to the Tribunal in order to allow its request for review to be considered for admissibility.

[7] On July 7, 2021, the Agency complied with rule 30 of the [Tribunal Rules](#), by filing a copy of the Notice with the Tribunal via email and confirming that the Notice remained unpaid.

[8] On July 20, 2021, the Tribunal received an email sent by Mr. Furman which included the requested information from the letter of acknowledgement as well as a scan of the Notice.

3. ISSUE

[9] Does Mr. Furman meet the admissibility threshold established in the [AAAMP Act](#) and its regulations? The threshold consists of three requirements:

1. filing the request for review in the prescribed time and manner;
2. the non-payment of the penalty associated to the notice of violation, if applicable; and
3. providing the required information and motives of the request for review in accordance with the [Tribunal Rules](#).

4. ANALYSIS

[10] The legislative scheme encompassed in the [AAAMP Act](#) provides a review mechanism whereby a Notice can be reviewed either by the Minister or by the Tribunal. In this case, he has elected to proceed by way of direct review by the Tribunal.

[11] The [AAAMP Act](#), the [AAAMP Regulations](#) and the [Tribunal Rules](#) require that the Tribunal, before it proceeds to a full hearing of a matter, makes a decision on the admissibility of an applicant's request for the review. Absolute bars to admissibility arise when the applicant has already paid the penalty attached to the Notice, or has failed to file a request for review within the prescribed time and manner as set out in the [AAAMP Act](#) and the [AAAMP Regulations](#).

[12] Subsections 11(2) of the [AAAMP Regulations](#) outline the required statutory period for the filing of a request for review before the Tribunal. A request for review must be filed within 30 days after the day on which the Notice was served. In this case, Mr. Furman had to file his request no later than June 29, 2021.

[13] Mr. Furman filed his request for review on July 2, 2021. As he failed to send it within the prescribed time limit, there is no valid request for review before the Tribunal.

[14] Given my findings with regards to the first threshold requirement, it is not necessary to consider the other two requirements.

5. ORDER

[15] For the abovementioned reasons, **I ORDER** that the request for review is **inadmissible**.

[16] Finally, I wish to inform Mr. Furman that this violation is not a criminal offence. After five years, he is entitled to apply to the Minister of Agriculture and Agri-Food to have the Notice removed from the records, in accordance with section 23 of the [AAAMP Act](#).

Dated at Ottawa, Ontario, on this 17th day of September 2021.

(Original signed)

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal