

Canada Agricultural  
Review Tribunal



Commission de révision  
agricole du Canada

Citation: *Afram v Canada Border Services Agency*, 2021 CART 26

**Docket: CART-2021-BNOV-031**

**BETWEEN:**

**GEORGINA AFRAM**

**APPLICANT**

**- AND -**

**CANADA BORDER SERVICES AGENCY**

**RESPONDENT**

**BEFORE:** Luc Bélanger, Chairperson

**WITH:** Ms. Georgina Afram, representing herself; 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) # 4974-21-0336 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 Ms. Afram 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 July 12, 2021, Ms. Afram was served with this Notice at the Toronto Pearson International Airport for having allegedly failed to present edible dried pig skin in her possession upon entering the country. Thereby, this contravened subsection 16(1) of the [\*Health of Animals Act\*](#) (HA Act). This violation is classified as “Very Serious” and was served with a \$1,300 monetary penalty.

[4] For the following reasons, in accordance with section 32 of the [\*Tribunal Rules\*](#), I find Ms. Afram’s request for review is inadmissible because a copy of the request was not sent by registered mail within the time limit prescribed by subsection 14(3) of the [\*AAAMP Regulations\*](#). Therefore, Ms. Afram is deemed to have committed the violation in accordance with section 9 of the [\*AAAMP Act\*](#).

## **2. BACKGROUND**

[5] On August 9, 2021, a request for review of the Notice was received by the Canada Agricultural Review Tribunal (Tribunal) which Ms. Afram submitted via email a day earlier. The request contained nothing other than an electronic copy of the Notice.

[6] On August 9, 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 August 24, 2021. Additionally, Ms. Afram was urged to comply with section 13 of the [\*Tribunal Rules\*](#) before the elapsing of the time limit 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 August 20, 2021, the Canada Border Services Agency (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.

## **3. ISSUE**

[8] Does Ms. Afram 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**

[9] 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, she has elected to proceed by way of direct review by the Tribunal.

[10] 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](#).

[11] Subsections 11(2), 14(1) and 14(2) of the [AAAMP Regulations](#) outline the required statutory period and the permitted modes of delivery 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, Ms. Afram had to file her request no later than August 11, 2021.

[12] On August 9, 2021, Ms. Afram's request for review was received by the Tribunal via email. Ms. Afram had the obligation to send a copy of the request for review by registered mail no later than August 11, 2021, pursuant to subsection 14(3) of the [AAAMP Regulations](#). Since she failed to send it by registered mail within the prescribed time limit, there is no valid request for review before the Tribunal.

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

#### **5. ORDER**

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

[15] Finally, I wish to inform Ms. Afram that this violation is not a criminal offence. After five years, she 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 17<sup>th</sup> day of September 2021.

Original Signed

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Luc Bélanger  
Chairperson  
Canada Agricultural Review Tribunal