

Canada Agricultural
Review Tribunal



Commission de révision
agricole du Canada

Citation: *Dziedzom v Minister of Public Safety and Emergency Preparedness*, 2021 CART
35

Docket: CART-2021-BMR-034

BETWEEN:

ELSIE DZIEDZOM

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

**WITH: Ms. Elsie Dziedzom, representing herself; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: November 26, 2021

1. INTRODUCTION

[1] This matter concerns the request for review of the Ministerial Decision (Decision) # 2104113-1 upholding the Notice of Violation #4971-21-0261 (Notice), pursuant to paragraph 13(2)(b) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (*AAAMP Act*).

[2] On February 8, 2021, Ms. Dziejdom was served with the Notice at the Toronto Pearson International Airport for having allegedly failed to present 5.1 kilograms of guinea fowl 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.

[3] The issue is to determine the admissibility of this request. I must evaluate whether or not Ms. Dziejdom 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*).

[4] For the following reasons, in accordance with section 48 of the [Tribunal Rules](#), I find Ms. Dziejdom’s request for review is inadmissible because it was not sent by registered mail within the time limit prescribed by subsection 14(3) of the [AAAMP Regulations](#). As confirmed by the Federal Court of Appeal in [Clare](#), this is a strict deadline which the Tribunal does not hold jurisdiction “to deviate from”.¹ Therefore, Ms. Dziejdom is deemed to have committed the violation in accordance with subsection 9(3) of the [AAAMP Act](#).

2. BACKGROUND

[5] On September 29, 2021, a request for review of the Notice was received by the Canada Agricultural Review Tribunal (Tribunal) which Ms. Dziejdom submitted via email.

[6] On October 1, 2021, the Tribunal sent a first acknowledgement letter to both parties requesting them to comply with rules 46 and 47 of the [Tribunal Rules](#) on or before October 14, 2021. Additionally, Ms. Dziejdom was urged to comply with section 13 of the [Tribunal Rules](#) by sending the request via registered mail to the Tribunal in order to allow its request for review to be considered for admissibility.

[7] On October 8, 2021, the Minister complied with rule 46 of the [Tribunal Rules](#), by filing a copy of the proof of service of the Decision with the Tribunal via email.

[8] As of November 22, 2021, the Tribunal has not received a request for review from Ms. Dziejdom by registered mail.

¹ [Clare v. Canada \(Attorney General\)](#), 2013 FCA 265 at para 24.

3. ISSUE

[9] Does Ms. Dziejdom meet the admissibility threshold established in the [AAAMP Act](#) and the [AAAMP 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 of Safety and Emergency Preparedness or by the Tribunal. The legislation further provides Ms. Dziejdom an opportunity to have a Minister's Decision reviewed by the Tribunal if she first elected for a ministerial review, as she has elected to do.

[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), 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 of the facts of a violation before the Tribunal. Additionally, subsection 14(3) of the [AAAMP Regulations](#) sets out how and when the request for review must be sent by registered mail following an electronic transmission.

[13] Under the abovementioned provisions, Ms. Dziejdom had the responsibility to file the request for review by a permitted method of transmission within 30 days after having been served the Notice, according to subsections 11(2) and 14(1) of the [AAAMP Regulations](#).

[14] Additionally, in the event of a request sent electronically, she had the responsibility to proceed by filing a copy by registered mail within the 48 hours following that deadline according to subsection 14(3) of the [AAAMP Regulations](#). Reiterating the principle enounced in [Clare](#), the Tribunal is not authorized to bend this strict deadline, and the request for review will have to be considered as not received within the statutory period.²

² [Ibid.](#)

[15] On September 29, 2021, Ms. Dziedzom sent her request for review by email. Because it was sent electronically, she had an obligation to send a copy by registered mail by no later than October 31, 2021, pursuant to subsection 14(3) of the [AAAMP Regulations](#). As she failed to send it within the prescribed time limit, there is no valid request for review before the Tribunal.

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

5. ORDER

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

[18] Finally, I wish to inform Ms. Dziedzom that this violation is not a criminal offence. After five years, Ms. Dziedzom 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 26th day of November 2021.

(Original Signed)

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal