



Citation: *Fourati v Minister of Public Safety and Emergency Preparedness*, 2022 CART 02

Docket: CART-2021-BMR-043

BETWEEN:

RAKIA FOURATI

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

[Translation of the official version in French]

BEFORE: Luc Bélanger, Chairperson

**WITH: Rakia Fourati, representing herself; and
Jonathan Ledoux-Cloutier, representing the Respondent**

DECISION DATE: January 19, 2022

WRITTEN SUBMISSIONS ONLY

1. OVERVIEW

[1] This matter concerns a request for review filed by Ms. Fourati before the Canada Agricultural Review Tribunal (Tribunal) pursuant to subsection 13(2) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act), in respect of Minister's Decision No. 2103675-1 made by the Minister of Public Safety and Emergency Preparedness (Minister) regarding Notice of Violation No. 3961-21-0254.

[2] On February 8, 2021, on arrival at Montréal-Trudeau International Airport, Ms. Fourati allegedly imported two sausages without presenting them for inspection. The Canada Border Services Agency (Agency) therefore issued her a notice of violation combined with an administrative monetary penalty of \$1,300 for violating subsection 16(1) of the [Health of Animals Act](#) (HA Act). According to section 4 of the [Agriculture and Agri-Food Administrative Monetary Penalties Regulations](#) (AAAMP Regulations), this is a "very serious violation".

[3] Minister's Decision No. 2103675-1 was issued on August 30, 2021. On November 25, 2021, Ms. Fourati, in accordance with paragraph 9(2)(b) of the [AAAMP Act](#), filed a request for review of this decision with the Tribunal.

[4] In light of the above, Ms. Fourati's request for review will be found admissible if Ms. Fourati has met the requirements set out in the [AAAMP Act](#), the [AAAMP Regulations](#) and the [Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)](#) (Tribunal Rules).

[5] For the following reasons, Ms. Fourati's request for review is found to be inadmissible.

2. BACKGROUND

[6] Ms. Fourati was given the Notice of Violation in person on February 8, 2021, following her arrival at Montréal-Trudeau International Airport.

[7] The Minister then reviewed the facts in accordance with paragraph 9(2)(b) of the [AAAMP Act](#) and confirmed the issuance of the Notice of Violation on August 30, 2021, in Minister's Decision No. 2103675-1.

[8] Ms. Fourati sent her request for review of the Notice of Violation and of the Minister's Decision to the Tribunal on November 22, 2021, by registered mail. The Tribunal received the request for review of the Minister's Decision on November 25, 2021

3. ISSUE

[9] Has Ms. Fourati met the admissibility requirements set out in the [AAAMP Act](#), the [AAAMP Regulations](#) and the [Tribunal Rules](#) in this case?

4. ANALYSIS

[10] A request for review is a right extended by Parliament that allows Ms. Fourati to have a notice of violation or a minister's decision reviewed by an independent body such as the Tribunal. Should Ms. Fourati not have complied with the requirements of the [AAAMP Act](#), the [AAAMP Regulations](#) or the [Tribunal Rules](#), the Tribunal has to find her request for review inadmissible.¹

[11] In addition, a case will be declared inadmissible where the request for review has not been filed within the prescribed time, in accordance with the conditions provided by Parliament. Section 13 of the [AAAMP Regulations](#) specifies the time within which a request for review of the Minister's Decision must be filed with the Tribunal.

[12] Moreover, the Federal Court of Appeal established in [Clare](#) that the Tribunal cannot extend the time limits for filing a request for review set out in the [AAAMP Act](#) and the [AAAMP Regulations](#).²

[13] This principle is directly applicable to Ms. Fourati and her filing of her request for review with the Tribunal.

[14] In accordance with paragraph 13(a) of the [AAAMP Regulations](#), Ms. Fourati had to file her request for review within 30 days after the day on which the notice was served.

[15] In this regard, it is important to note that, according to [Adebogun](#):³

[11] ... A document sent by registered mail is deemed to be served on the 10th day after the date indicated in the receipt, whether it was actually received by the recipient or not.

...

[16] The Minister's Decision was issued on August 30, 2021, and sent by registered mail on September 1, 2021. Since Ms. Fourati failed to receive it, the Agency sent the decision by regular mail. In accordance with the principle established in [Adebogun](#) and with subsection 9(2) of the [AAAMP Regulations](#):

9(2) A document sent by registered mail is served on the 10th day after the date indicated in the receipt issued by a post office.

[17] The Minister's Decision is deemed to have been served on Ms. Fourati on September 11, 2021. The 30 days therefore had to be calculated starting September 12, 2021.

¹ [Wilson v Canada \(Canadian Food Inspection Agency\)](#), 2013 CART 25 at para 10.

² [Clare v Canada \(Attorney General\)](#), 2013 FCA 265.

³ [Adebogun v Canada \(Attorney General\)](#), 2017 FCA 242.

[18] Since the request for review was received on November 25, 2021, it was not filed within the 30 days required by paragraph 13(a) of the [AAAMP Regulations](#). The request for review Ms. Fourati filed with the Tribunal is therefore inadmissible.

5. ORDER

[19] For these reasons, I **ORDER** that the request for review of Minister's Decision No. 2103675-1 be declared inadmissible under subsection 13(2) of the [AAAMP Act](#). Ms. Fourati is therefore deemed to have committed the violation alleged against her in Notice of Violation No. 3961-21-0254.

[20] I **ORDER** Ms. Fourati to pay the Agency the administrative monetary penalty of \$1,300 within 30 days after the day on which this decision is served.

[21] Lastly, I wish to inform Ms. Fourati that this violation is not a criminal offence. After five years, she may apply to the Minister of Public Safety and Emergency Preparedness to have the violation removed from the records, in accordance with section 23 of the [AAAMP Act](#).

Dated at Ottawa, Ontario, this 19th day of January 2022.

(Original signed)

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal