



Canada Agricultural
Review Tribunal
Ottawa, Canada
K1A 0B7

Commission de révision
agricole du Canada

Citation: *Webster v Canada Border Services Agency*, 2022 CART 10

Docket: CART-2022-BNOV-005

BETWEEN:

DONOVAN WEBSTER

APPLICANT

- AND -

CANADA BORDER SERVICES AGENCY

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

WITH: Mr. Donovan Webster, representing himself; and
Mr. Jonathan Ledoux-Cloutier, representing the Respondent

DECISION DATE: May 5, 2022

1. INTRODUCTION

[1] On March 7, 2022, Mr. Webster was served with Notice of Violation (Notice) # 4974-22-0117 upon his entry at the Pearson International Airport in Toronto, Ontario, for importing “chicken and beef patties,” contrary to section 16(1) of the [Health of Animals Act](#). This Notice was issued with a penalty of \$1300.

[2] The Notice, which was signed by Mr. Webster, indicates that he chose not to dispute the Notice, acknowledged that he committed the violation and agreed to pay a reduced penalty of \$650 in accordance with subsection 10(2) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act). Contrary, to this agreement, Mr. Webster also requested that the Canadian Agricultural Review Tribunal (Tribunal) undertake a review of the facts of the Notice pursuant to subsection 9(2) of the [AAAMP Act](#).

[3] On March 9, 2022, the Tribunal received Mr. Webster’s request to review the Notice.

2. CONSIDERATIONS

[4] Section 32 of the [Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)](#) (*Tribunal Rules*) requires that the Tribunal render a decision on the admissibility of Mr. Webster’s request. Bars to the admissibility, include the Tribunal’s jurisdiction and the Applicant’s compliance with its enabling statute and Regulations.

[5] Subsection 9(2) of the [AAAMP Act](#) reveals that a dual-track procedure for challenging a Notice, with a penalty, exists either before the Minister or before the Tribunal. There is no ambiguity in the language used to establish these review mechanisms. Both are alternatives to paying the penalty set out in a Notice of Violation:

(2) Instead of paying the penalty set out in a notice of violation or, where applicable, the lesser amount that may be paid in lieu of the penalty, the person named in the notice may, in the prescribed time and manner;

(a) if the penalty is \$2,000 or more, request to enter into a compliance agreement with the Minister that ensures the person's compliance with the agri-food Act or regulation to which the violation relates;

(b) request a review by the Minister of the facts of the violation; or

(c) request a review by the Tribunal of the facts of the violation.

[6] The fact that Mr. Webster paid the penalty is not in dispute and the language in the section signed by Mr. Webster when the notice was paid is clear. It reads as follows:

I do not wish to dispute this Notice of Violation with penalty and choose to pay the penalty within 15 days of the date of service of this notice. I understand that by agreeing to pay this penalty, I am acknowledging that I have committed the violation noted.

[7] The Tribunal has no jurisdiction to review the facts of the Notice when the penalty set in it has been paid as confirmed by the Federal Court of Appeal in [HersHKovitz](#).¹ Mr. Webster is deemed to have committed the violation pursuant to subsection 9(1) of the [AAAMP Act](#).

¹ [HersHKovitz v. Canada \(Attorney General\)](#), 2021 FCA 38.

3. ORDER

[8] For the above-mentioned reasons, I **ORDER** that the request for review is **inadmissible**.

[9] Finally, I wish to inform Mr. Webster 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 5th day of May 2022.



Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal