



Canada Agricultural
Review Tribunal
Ottawa, Canada
K1A 0B7

Commission de révision
agricole du Canada

Citation: *Bosa v Minister of Public Safety and Emergency Preparedness*, 2022 CART 24

Docket: CART-2022-BMR-018

BETWEEN:

JOHN BOSA

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

WITH: Mr. John Bosa, representing himself; and
Ms. Gaynor Holden, representing the Respondent

DECISION DATE: August 11, 2022

1. INTRODUCTION

[1] This matter concerns the request for review of the Minister of Public Safety and Emergency Preparedness' decision (Decision) # 2106698-1 pursuant to subsection 13(2)(b) 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 evaluate whether or not Mr. Bosa 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 June 1, 2022, Mr. Bosa was served with the Decision via email for having allegedly failed to present an animal by-product in his 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 48 of the [Tribunal Rules](#), I find that Mr. Bosa'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](#). Therefore, the Decision is upheld.

2. BACKGROUND

[5] On June 1, 2022, the Decision was notified to Mr. Bosa via email.

[6] On June 14, 2022, a request for review of the Decision was received by the Canada Agricultural Review Tribunal (Tribunal) which Mr. Bosa submitted via email.

[7] On June 16, 2022, the Tribunal sent a first acknowledgement letter to Mr. Bosa requesting him to comply with section 47 of the [Tribunal Rules](#) on or before June 29, 2022. Additionally, Mr. Bosa was urged to comply with section 13 of the [Tribunal Rules](#) and section 13(1) and 14 of the [AAAMP Regulations](#) by sending the request via registered mail to the Tribunal within the prescribed time limit in order to allow its request for review to be considered for admissibility.

[8] On June 27, 2022, the Canada Border Services Agency (Agency) complied with rule 46 of the [Tribunal Rules](#) via email.

[9] To this date, Mr. Bosa has not sent his request for review by registered mail as specified in subsection 14(3) of the [AAAMP Regulations](#).

3. ISSUE

[10] Does Mr. Bosa 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

[11] 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. The legislation further provides Mr. Bosa an opportunity to have a Minister's decision reviewed by the Tribunal if he first elected for a Ministerial review. In this case, Mr. Bosa has elected to proceed by way of review by the Minister. He then asked the Tribunal to review the Minister's decision.

[12] 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 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](#).

[13] Subsections 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:

14 (1) *A person may make a request referred to in section 11, 12 or 13 by delivering it by hand or by sending it by registered mail, courier or fax or other electronic means to a person and place authorized by the Minister.*

(2) *Where a person makes a request referred to in subsection (1), the date of the request is*

(a) the date on which the request is delivered to the authorized recipient, if the request is delivered by hand;

(b) the earlier of the date on which the request is received by the authorized recipient and the date on the receipt given to the person by a post office or courier, if the request is sent by registered mail or courier; or

(c) the date on which the request is sent, if the request is sent by fax or other electronic transmission.

[14] 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:

(3) If a request is sent by fax or other electronic means, a copy of the request shall be sent either by courier or registered mail within 48 hours after the time limit for making the request.

[15] On June 14, 2022, Mr. Bosa sent his request for review by email. Because it was sent electronically, Mr. Bosa had an obligation to send a copy by registered mail, pursuant to subsection 14(3) of the [AAAMP Regulations](#). To this date, well beyond the imposed time limit, the Tribunal has not received Mr. Bosa's request for review by registered mail. As Mr. Bosa 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 aforementioned reasons, I **ORDER** that the request for review is **inadmissible**.

[18] This violation is not a criminal offence. After five years, Mr. Bosa 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](#).



Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal