



Canada Agricultural
Review Tribunal
Ottawa, Canada
K1A 0B7

Commission de révision
agricole du Canada

Citation: *Canadian Co-operative Wool Growers Limited v Canadian Food Inspection Agency*,
2022 CART 23

Docket: CART-2022-FNOV-020

BETWEEN:

CANADIAN CO-OPERATIVE WOOL GROWERS LTD.

APPLICANT

- AND -

CANADIAN FOOD INSPECTION AGENCY

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

WITH: Mr. Eric Bjergso, representing the Applicant

DECISION DATE: August 5, 2022

1. BACKGROUND

[1] This matter concerns the request for review of the Notice of Violation #2122ON0177 (Notice), pursuant to paragraph 9(2)(c) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act).

[2] On July 5, 2022, Canadian Co-operative Wool Growers Ltd. (Wool Growers Ltd) was served with the Notice for allegedly selling or distributing approved tags without reporting the required information to the administrator within the prescribed time contrary to section 174.1 of the [Health of Animals Regulations](#). This violation is classified as “serious” and was served with a \$6,000 monetary penalty.

[3] On July 21, 2022, the Agency complied with rule 30 of the [Tribunal Rules](#), by filing a copy of the proof of service of the Notice with the Tribunal via email. The email also stated that Wool Growers Ltd. had already paid the penalty at the discounted rate of \$3,000.

[4] The issue is to determine the admissibility of this request. I must evaluate whether or not Wool Growers Ltd 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).

[5] For the following reasons, in accordance with section 32 of the [Tribunal Rules](#), I find that Wool Growers Ltd. ’s request for review is inadmissible because it choose to pay the penalty. As confirmed by the Federal Court of Appeal in [Hershkovitz](#)¹, pursuant to section 9 of the [AAAMP Act](#) if the person named in the Notice makes the required payment, the person is deemed to have committed the violation and the payment ends the proceedings. Therefore, the Tribunal does not have jurisdiction to review the facts of the Notice.

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

2. ISSUE

[6] Does Wool Growers Ltd. 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](#).

3. ANALYSIS

[7] 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 Wool Growers Ltd. an opportunity to have a Minister's Decision reviewed by the Tribunal if it first elected for a ministerial review.

[8] 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 Notice², 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](#).

[9] The fact that Wool Growers Ltd. paid the penalty is uncontested. In its request for review, Wool Growers Ltd. admits to paying the penalty and provides the details of the transaction completed on July 13, 2022. The Notice also shows that Wool Growers Ltd. elected Option 1. The language found under Option 1 is clear:

² [Ibid.](#)

You do not wish to dispute the Violation and choose to pay the penalty within 15 days of the date of service of this notice of violation.

[10] As confirmed by the Federal Court of Appeal in [Herskovitz](#), the Tribunal has no jurisdiction to review the facts of the Notice of Violation when the penalty set in it has been paid. The Applicant is deemed to have committed the violation pursuant to subsection 9(1) of the [AAAMP Act](#).

4. ORDER

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

[12] Finally, I wish to inform Wool Growers Ltd. that this violation is not a criminal offence. After five years, Wool Growers Ltd. 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