



Canada Agricultural  
Review Tribunal  
Ottawa, Canada  
K1A 0B7

Commission de révision  
agricole du Canada

Citation: *Menezes v Minister of Public Safety and Emergency Preparedness*, 2023 CART 03

Docket: CART-2022-BMR-031

BETWEEN:

MARTHA MENEZES

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

BEFORE: Luc Bélanger, Chairperson

WITH: Ms. Martha Menezes, representing herself; and  
Ms. Cassandra Ianni-Lucio, representing the Respondent

DECISION DATE: January 16, 2023

## 1. INTRODUCTION

[1] This matter concerns the request for review of the Ministerial Decision (Decision) #2208658-1 upholding the Notice of Violation #4971-22-0614 (Notice), pursuant to paragraph 13(2)(b) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AAAMP Act).

[2] On May 11, 2022, Ms. Menezes was served with the Notice at the Toronto Pearson International Airport for having allegedly failed to present “500 grams of pork meat, 264 grams of chicken seasoning containing 1.1% chicken fat and 1.8% chicken meat, as well as a few pods of butter which she noted to be obtained from the airplane food service” which were 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. Menezes 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. Menezes’s request for review is inadmissible because it was not sent by registered mail within the 30-day limit prescribed by subsection 11(2) of the [AAAMP Regulations](#). As confirmed by the Federal Court of Appeal in [Clare](#), this is a strict deadline which the Canada Agricultural Review Tribunal (Tribunal) does not hold jurisdiction “to deviate from”<sup>1</sup>. Therefore, Ms. Menezes is deemed to have committed the violation in accordance with subsection 9(3) of the [AAAMP Act](#).

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

## 2. BACKGROUND

[5] On November 21, 2022, Ms. Menezes submitted via regular mail a request for review of the Minister's decision.

[6] On November 22, 2022, the Tribunal sent a first acknowledgement letter to Ms. Menezes requesting that she complies with rules 47 of the [Tribunal Rules](#) on or before December 6, 2022. Additionally, Ms. Menezes was urged to comply with section 13 of the [Tribunal Rules](#) by sending the request via registered mail to the Tribunal in order for it to be considered for admissibility.

[7] On November 22, 2022, the Tribunal sent a first acknowledgement letter to the Canada Border Services Agency (Agency) requesting that they comply with rules 46 of the [Tribunal Rules](#) on or before December 7, 2022.

[8] On December 5, 2022, 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.

[9] As of December 6, 2022, the Tribunal has not received a request for review from Ms. Menezes by registered mail.

## 3. ISSUE

[10] Does Ms. Menezes meet the admissibility threshold established in the [AAAMP Act](#) and the [AAAMP Regulations](#) and the [Tribunal Rules](#)? 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 of Public Safety and Emergency Preparedness or by the Tribunal. The legislation further provides Ms. Menezes 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 in this case.

[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 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](#).

[13] 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.

[14] Under the abovementioned provisions, Ms. Menezes 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](#).

[15] On November 21, 2022, Ms. Menezes sent her request for review by regular mail. Regular mail is not a valid way to make a request for review under subsection 14(1) of the [AAAMP Regulations](#). Because Ms. Menezes failed to send her request for review in the prescribed manner and 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. Menezes that this violation is not a criminal offence. After five years, Ms. Menezes 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](#).



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Luc Bélanger  
Chairperson  
Canada Agricultural Review Tribunal