



Canada Agricultural  
Review Tribunal  
Ottawa, Canada  
K1A 0B7

Commission de révision  
agricole du Canada

Citation: *Corbally v Minister of Public Safety and Emergency Preparedness*, 2023  
CART 16

**Docket: CART-2023-BMR-005**

**BETWEEN:**

**MARIE CORBALLY**

**APPLICANT**

**- AND -**

**MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS**

**RESPONDENT**

**BEFORE: Emily Crocco, Chairperson**

**WITH: Ms. Marie Corbally, the Applicant, and  
Ms. Veronica Raymond, representing the Respondent**

**DECISION DATE: May 23, 2023**

**WRITTEN SUBMISSIONS ONLY**

## 1. INTRODUCTION/BACKGROUND

[1] On October 10, 2022, the Applicant arrived in Calgary by air from the Czech Republic. On her Traveller Declaration and at the Primary Inspection Kiosk, the Applicant denied that she was importing any animal products. During inspection of her luggage, however, Respondent's officers found eleven meat and dairy products.

[2] They issued Notice of Violation (Notice) #7011-22-0598 to the Applicant with a penalty of \$1,300.00 for failing to present for inspection the animal products, contrary to subsection 16(1) of the [Health of Animals Act](#) (*HA Act*).

[3] On November 3, 2022, the Applicant requested that the Respondent review the Notice. The Respondent upheld the Notice in decision #2210334-1. The Applicant has requested that the Tribunal review that decision.

[4] The Applicant does not dispute that she imported the animal products or that she failed to declare them. Instead, she asks that the Notice be set aside because she was overly tired, on medication, and distracted; that she did not intend to import the animal products into Canada and was unaware of the law; and because she doesn't have a lot of money.

## 2. ISSUES IN THIS APPLICATION

[5] Subsection 16(1) of the *HA Act* requires everyone, either before or during importation, to declare all animal products they are importing to an inspector or customs officer. The declaration must be made at the first opportunity after arriving in Canada (see [Canada \(Attorney General\) v Savoie-Forgeot](#), 2014 FCA 26).

[6] A person who fails to declare accurately an animal product or animal by-product may receive a Notice for violating section 16(1) of the *HA Act*.

[7] The following are the essential elements of a violation of subsection 16(1) of the *HA Act*:

1. That the Applicant is the person identified in the Notice;
2. That the Applicant imported an animal, animal product, animal by-product or animal food into Canada; and
3. That the Applicant did not declare the product in question at first contact with the Respondent's officers.

[8] The Respondent provided ample evidence, which the Applicant either does not dispute or accepts, and which I also accept, of the above essential elements of the violation.

[9] As a result, I conclude that the Applicant violated subsection 16(1) of the *HA Act*.

[10] The issues for my determination are whether the Applicant has established a permissible defence. If she has not established a permissible defence, I must also determine whether the penalty was calculated appropriately.

[11] For the reasons that follow, I confirm the Respondent's decision.

### **3. ANALYSIS**

#### **(a) Honest Mistake and Ignorance of the Law**

[12] Section 18 of the [\*Agriculture and Agri-Food Administrative Monetary Penalties Act\*](#) (AAAMP Act) states that a person named in a Notice "does not have a defence" by reason that the person "reasonably and honestly believed in the existence of facts that, if true, would exonerate the person".

[13] As a result, the Applicant's arguments that she made an honest mistake and was unaware of Canada's laws are not permissible defences.

**(b) Being Tired, Distracted and Medicated**

[14] The Applicant states that she was too medicated, distracted and tired to understand what she was declaring when she answered the questions about what she was importing into Canada.

[15] Psychiatric evidence must be provided to establish the defence of automatism (see [\*Canada \(Attorney General\) v Klevtsov\*](#), 2018 FCA 196 at para 13). As the Applicant failed to provide any psychiatric evidence to support it, I find that this defence is unsubstantiated.

**(c) Limited Financial Resources**

[16] The Applicant requests that the penalty be cancelled or reduced because of her limited financial resources.

[17] The Tribunal's power to grant remedies comes from its enabling legislation. This means that unless the law in question gives the Tribunal the authority to grant the requested remedy, it cannot do so.

[18] The legislation does not say that the Tribunal may set aside or dismiss a Notice on humanitarian or financial grounds. As a result, the Applicant's arguments that she cannot afford to pay the fine is not a permissible defence.

**(d) The Penalty Was Calculated Appropriately**

[19] As the Applicant has failed to establish a permissible defence, I must now consider whether the penalty was calculated appropriately.

[20] Division 1 of Part 1 of Schedule 1 of the [Agriculture and Agri-Food Administrative Monetary Penalties Regulations](#) (*AAAMP Regulations*) classifies a violation of subsection 16(1) as “very serious”.

[21] Paragraph 5(1)(c) of the *AAAMP Regulations* states that the penalty for a “very serious” violation is \$1,300.00.

[22] As the Applicant violated subsection 16(1) of the *HA Act*, the \$1,300.00 penalty imposed on the Applicant complied with the law.

#### **4. CONCLUSION**

[23] The request for review is dismissed.

[24] The Applicant must pay the \$1,300.00 penalty to the Respondent within sixty days of notification of this decision.

[25] This violation is not a criminal offence. Pursuant to section 23 of the *AAAMP Act*, five years after the date on which the Applicant pays the penalty, she has the right to apply to the Minister of Agriculture and Agri-Food to have the violation removed from the records.

Dated on this 23<sup>rd</sup> day of May 2023.



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Emily Crocco  
Chairperson  
Canada Agricultural Review Tribunal