



Canada Agricultural
Review Tribunal
Ottawa, Canada
K1A 0B7

Commission de révision
agricole du Canada

Citation: *Padol v Minister of Public Safety and Emergency Preparedness*, 2023
CART 17

Docket: CART-2023-BMR-004

BETWEEN:

IRENEUSZ PADOL

APPLICANT

- AND -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RESPONDENT

BEFORE: Emily Crocco, Chairperson

**WITH: Mr. Ireneusz Padol, the Applicant, and
Ms. Veronica Raymond, representing the Respondent**

DECISION DATE: June 12, 2023

WRITTEN SUBMISSIONS ONLY

1. INTRODUCTION/BACKGROUND

[1] On October 24, 2022, the Applicant arrived in Canada at an airport in Toronto.

[2] The Respondent's officers allege that the Applicant failed to declare that he was importing bacon, chicken and beef cubes, garlic bulbs, turnips and rooted celery with soil. They say that this violated subsection 16(1) of the [Health of Animals Act](#) (*HA Act*).

[3] As a result, the Respondent's officers issued Notice of Violation (Notice) #4974-22-0670 to the Applicant. The Notice imposed a \$1,300.00 penalty.

[4] On October 24, 2022, the Applicant requested that the Respondent review the Notice. The Respondent upheld the Notice in decision #2210229-1. The Applicant has requested that the Tribunal review that decision.

[5] The Applicant does not dispute that he imported the animal products. However, he says that it was unintentional and due to the combined impact of lengthy travel, physical pain, fatigue, old age, and disabilities (including diabetes). He also asks that the penalty be reduced or cancelled because of his family's limited income.

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

2. ISSUE IN THIS APPLICATION

[7] Subsection 16(1) of the *HA Act* requires everyone, either before or during importation, to present all animal products they are importing to an inspector or customs officer.

[8] A person who does not comply with subsection 16(1) of the *HA Act* may receive a Notice, with or without a financial penalty.

[9] 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 and therefore failed to present it for inspection.

[10] The Respondent provided ample documentary evidence, which the Applicant concedes, of all of the elements of the violation. As a result, I find that the violation is established.

[11] Consequently, the only question for my determination is whether the Applicant has raised, and persuaded me, of a permissible defence. If he has not, I must then decide whether the penalty was calculated appropriately.

3. ARGUMENTS AND ANALYSIS

(a) Honest Mistake and Ignorance of the Law

[12] The Applicant states that his failure to make the appropriate declaration was the result of fatigue, physical pain, old age, and disabilities (including diabetes). He wrote that these factors obstructed his communication with his wife and reduced his judgement. He wrote that it was an honest mistake.

[13] 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".

[14] As a result, the Applicant's argument that he made an honest mistake given his medical conditions, fatigue, and other personal factors is not a permissible defence.

(b) Limited Financial Resources

[15] The Applicant requests that the penalty be cancelled or reduced because of his family's limited financial resources.

[16] 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.

[17] 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 he cannot afford to pay the fine is not a permissible defence.

(c) Calculation of Penalty

[18] 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".

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

[20] 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

[21] I confirm the Respondent's decision.

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

[23] 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, he has the right to apply to the Minister of Agriculture and Agri-Food to have the violation removed from the records.

Dated on this 12th day of June 2023.



Emily Crocco
Chairperson
Canada Agricultural Review Tribunal