

Canada Agricultural
Review Tribunal



Commission de révision
agricole du Canada

Citation: *Zhang v Canadian Food Inspection Agency*, 2025 CART 36

Docket: CART-2025-FNOV-047

BETWEEN:

YANXI ZHANG

APPLICANT

- AND -

CANADIAN FOOD INSPECTION AGENCY

RESPONDENT

BEFORE: Patricia L. Farnese, Member

**WITH: Yanxi Zhang, the Applicant and
Cindy Squires and Tammy Whyte, for the Respondent**

HEARING BY WRITTEN SUBMISSIONS

DECISION DATE: November 7, 2025

1. INTRODUCTION

[1] Yanxi Zhang received a Notice of Violation (Notice) with \$6,000 penalty for failing to comply with an Inspector's order to produce information as required by section 27 of the [*Safe Food for Canadians Act*](#) (*Safe Food Act*). Ms. Zhang elected to have the Tribunal review the Notice through written submissions from the Parties.

[2] Canadian Food Inspection Agency (Agency) and Department of Fisheries and Oceans Inspectors intercepted Ms. Zhang selling imported, live mitten crabs to a customer from the back of her vehicle on December 1st, 2024. After conducting an initial search of her cellphone and vehicle, the Inspectors ordered Ms. Zhang to provide further documents and information. The Agency issued the Notice when Ms. Zhang failed to provide any further documents or information.

[3] In her submissions, Ms. Zhang claimed that she no longer has access to the records pertaining to the weekly sales of live mitten crabs because the actual seller of the crabs locked her out of the online platforms, WeChat and Little Red Book, that contained those records.

[4] The Notice and penalty are confirmed. The Agency has proven that Ms. Zhang failed to comply with an Inspector's order to provide records related to her supplier and sales of live mitten crabs. Ms. Zhang's assertion that she was only ordered to provide records contained on WeChat and Little Red Book is an unreasonably narrow interpretation of the order. I find that Ms. Zhang intentionally defied the order to further conceal her involvement in the unlawful sales of live mitten crabs.

2. ESSENTIAL ELEMENTS

[5] Section 27 of the *Safe Food Act* provides that:

An inspector may, for a purpose related to verifying compliance or preventing non-compliance with this Act, order a person to provide, on the date, at the time and place and in the manner specified by the inspector, any document, information or sample specified by the inspector.

[6] For the Notice and penalty to be confirmed, the Agency must convince the Tribunal that Ms. Zhang contravened section 27 by proving the following essential elements of section 27:

1. An Inspector made an order to Ms. Zhang;
2. The order was to produce a document, information or sample;
3. The order was related to verifying or preventing non-compliance with the *Safe Food Act*;
4. The order specified the date, time, place and manner by which Ms. Zhang was to comply with the order; and
5. Ms. Zhang failed to comply with that order.

3. ISSUES

[7] Only the final two essential elements are in dispute. Ms. Zhang admitted in her submissions to the Tribunal that she received an order for an Inspector to produce information and documents during an inspection related to the sale of live mitten crabs. She also admitted she did not provide anything in response to that order. She argued, however, that she did not contravene that order because she had no further information to provide. She claimed to have been locked out of the WeChat and Little Red Book accounts where the information and records she was ordered to provide were kept.

[8] Therefore, the request for review of the Notice raises the following issues:

- a. What was Ms. Zhang ordered to provide to the Agency?
- b. Did Ms. Zhang fail to comply with the order?

If I find that Ms. Zhang contravened section 27 of the *Safe Food Act*, the Tribunal will also consider whether the \$6000 penalty was correctly assessed.

4. ANALYSIS

a. What was Ms. Zhang ordered to provide to the Agency?

[9] The Tribunal must clearly understand what Ms. Zhang was ordered to do before deciding whether the Agency has proven the final two elements of this Notice. Therefore, the first task is to precisely determine what the December 1st order required and whether the order specified how Ms. Zhang can comply.

[10] The Agency declined the opportunity to provide submissions to assist the Tribunal in understanding the evidence they have presented to meet their burden of proof. Their evidence is contained in the Minister's Report and includes a report, prepared by the Agency's Enforcement and Investigation Services (EIS). The EIS report outlines the documents arising from the Agency's inspection and investigation that the EIS relied upon when they recommended that the Notice with penalty be issued to Ms. Zhang. The EIS report indicates that their recommendation is based on the Agency's "National Enforcement Guidelines." These Guidelines have not been provided to the Tribunal and may contain factors that are not relevant to the Tribunal's task of assessing whether the Agency has met their burden of proof. Therefore, the Tribunal does not consider the discussion of the elements of section 27 in the EIS report as the Agency's submission to this hearing on the essential elements.

[11] During the December 1st Inspection, Ms. Zhang was verbally ordered to provide her supplier's name, contact information, and records of payment transactions by 4pm the next day. She was also ordered to provide information about all her live mitten crabs sales by 4pm on December 6th. The Agency Inspector gave Ms. Zhang her business card with her phone number and email address where the ordered information was to be sent. The Inspector followed up via an email address known to be used by Ms. Zhang on December 2nd and December 4th, reminding her of the deadlines. Ms. Zhang did not object or seek clarification after receiving those emails, which supports a finding that the emails accurately captured the verbal order Ms. Zhang initially received. Therefore, the Agency has proven the fourth essential element – the order specified the date, time, place and manner by which Ms. Zhang was to comply with the order.

b. Did Ms. Zhang fail to comply with the order?

[12] Yes. I find the Agency has proven the final element of the violation. Ms. Zhang failed to comply with the Inspector's order. She provided no further information about her suppliers or customers. Her only contact with the Inspector was a text message confirming the Inspector's email and stating that her lawyer would be in contact. The Inspector was not contacted by Ms. Zhang's lawyer.

[13] In her request for review, Ms. Zhang stated that she was initially "forcibly logged out of the account by the person who originally gave me access, and as a result, I lost all access to records, communications, and account history. I no longer have any means to retrieve or verify past information from that platform." She also argued that the Agency could not prove that she was involved in sales of live mitten crabs before December 1st thereby suggesting that no records related to her previous sales existed.

[14] After receiving the Minister's Report, Ms. Zhang no longer asserted that she was not involved in the previous sales. She, however, provided evidence to support her claim that she had been blocked from accessing WeChat by a third party before the first deadline imposed by the Agency. The Agency did not contest this evidence.

[15] It is clear from Ms. Zhang's submission to the Tribunal that she is asking the Tribunal to find that she was only ordered to provide information contained in the WeChat and Little Red Book accounts she was using to advertise and sell live mitten crabs. She wrote "After December 1, I no longer had access to the account because the actual seller forced me to log out once I was caught. I had no control over the account and no further information to provide. The officers had already collected all available information from my phone recordings and their video documentation." I find the narrow interpretation of the order proposed by Ms. Zhang unreasonable in the circumstances.

[16] As outlined above, the emails reminding Ms. Zhang of the deadlines to comply with the Inspector's order made no reference to the order being limited to information from the WeChat and Little Red Book Accounts. The Minister's Report contained multiple records of payments from customers to accounts controlled by Ms. Zhang and her husband, including electronic fund transfers to the email account Ms. Zhang used to communicate with the Tribunal. Ms. Zhang has not explained why these records were not given to the Agency.

[17] Similarly, the evidence she provided to the Tribunal of text messages between her and the third party she claims locked her out of WeChat and Little Red Book ought to have been provided to the Agency. She refers to this person as the “actual seller” of the live mitten crabs and, therefore, is within the scope of the order to provide information regarding the previous sales.

c. Was the \$6000 penalty correctly assessed?

[18] Schedule 1 of the [*Agriculture and Agri-Food Administrative Monetary Penalties Regulations*](#) (*AAAMP Regulations*) classifies section 27 of the *Safe Food Act* as a serious violation. Section 5(3) of the *AAAMP Regulations* imposes a \$6,000 penalty for a serious violation that has been committed by a person for a financial benefit although the penalty can be adjusted in some cases.

[19] The Agency has the burden of proving that the penalty imposed was correctly assessed based on three criteria: (1) prior violations or convictions, (2) intent or negligence, and (3) the harm done or could have been done. Schedule 3 of the *AAAMP Regulations* attaches a numerical score to each of the three criteria. Those scores are totalled to determine the “Total Gravity Value”. If an adjustment is required, Schedule 2 the *AAAMP Regulations* outlines the percentage the penalty should be increased or decreased.

[20] I was unable to determine the precise Total Gravity Value assigned when the penalty was imposed because the Agency made no submissions during the written hearing. I believe they assessed a Total Gravity Value of 8 based on a recommendation from the EIS. Whether that recommendation was ultimately adopted or was further adjusted before the Notice was issued is unclear. The Agency, however, did not adjust the penalty which indicates that they assessed a Total Gravity Value somewhere between 6-10.

History

[21] This Notice is one of at least 4 Notices stemming from the same investigation. Ms. Zhang did not contest all the Notices, so at the time of this writing there is at least 1 violation on record in the previous 5 years. The relevant timeframe, however, is assessed when the Notice is issued. As such, Ms. Zhang had no record of previous violations in the last 5 years. Part 1 of Schedule 3 of the *AAAMP Regulations* directs that a Total Gravity Value of 0 be assigned as a result.

Negligence or Intent

[22] I find Ms. Zhang intentionally violated the order. Therefore, a Total Gravity Value of 5 is appropriate. Had Ms. Zhang honestly believed that she had complied with the order and provided all records she in her possession, she would have communicated that fact to the Agency after she missed the first deadline and received a subsequent email from the Agency reminding her of the second deadline. The Inspectors would have had an opportunity to clarify their order if Ms. Zhang genuinely misunderstood what the order required.

[23] Instead, Ms. Zhang decided to ignore the order to conceal her involvement in the unlawful sales of live mitten crabs, which is consistent with her behaviour during the inspection. The Agency presented uncontested evidence that Ms. Zhang actively concealed evidence during the inspection by logging out of the WeChat and Little Red Book when the Inspectors temporarily returned her cellphone so she could receive a phone call during the inspection. She also provided dishonest answers to the Inspectors' questions during the inspection. For example, she initially denied having access to the WeChat and Little Red Book accounts she used to advertise and sell the live mitten crabs and only admitted having access when an Inspector accessed these accounts on her cellphone.

Harm

[24] Finally, I find that a Total Gravity Value of 3 is justified in this case. The Agency did not provide evidence of actual harm. The potential harm caused by Ms. Zhang's actions, however, was serious, not minor.

[25] Schedule 3, Part 3 of the *AAAMP Regulations* assesses the potential or actual harm caused to (1) human, animal or plant health or the environment; (2) a person as a result of false, misleading or deceptive practices; or (3) serious monetary losses to any person. Therefore, the harm that may have been caused by the underlying violation the Agency was investigating is a relevant consideration when assessing harm.

[26] I accept the Agency's evidence that live mitten crabs pose significant risks. They can carry disease that may be spread to native aquatic species if released into the wild. They also have the potential to out-compete native species and disrupt or degrade natural ecological systems as a result. The magnitude of the risk is reflected in the fact that the import of live mitten crabs is expressly prohibited in the [Safe Food for Canadians Regulations](#) (*Safe Food Regulations*). By Ms. Zhang's own admission, someone else has likely continued to sell live mitten crabs. Her failure to comply with an Inspector's order has deprived the Agency with information that may have help them prevent harm caused by these sales.

[27] With a Total Gravity Value of 8, Schedule 2 of the *AAAMP Regulations* directs that the \$6,000 penalty not be adjusted. Although the Agency may have awarded a different Total Gravity Value, the impact of a different assessment has no impact on the amount of the penalty in this case. A penalty of \$6,000 was properly assessed for the Notice.

[28] I do not have the statutory authority to consider the hardship the payment of this penalty may cause because of Ms. Zhang's personal circumstances.

5. CONCLUSION

[29] The Notice and \$6,000 penalty are confirmed.

Dated on this 7th day of November 2025.

(Original Signed)

Patricia L. Farnese
Member
Canada Agricultural Review Tribunal