



Citation: Ouellet v. Canada (CFIA), 2010 CART 026

Date: 20101116
Docket: RTA-60361R;
RT-1424

Between:

Steve Ouellet, Applicant

- and -

Canadian Food Inspection Agency, Respondent

[Translation of the official French version]

Before: Chairperson Donald Buckingham

In the matter of an application made by the applicant, pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, for a review of the facts of a violation of subsection 141(1) of the *Health of Animals Regulations*, alleged by the respondent.

DECISION

[1] Following direction from the Federal Court of Appeal as set out in its decision of 13 October 2010 in *Attorney General of Canada v. Steve Ouellet* (FCA file A-67-10), the Canada Agricultural Review Tribunal (Tribunal), by order, determines that the applicant committed the violation and is liable for payment of the penalty in the amount of \$1,600.00 to the respondent within 30 days after the day on which this decision is served.

For reconsideration from the Federal Court of Appeal.
13 October 2010.

REASONS

[2] The respondent, the Canadian Food Inspection Agency (Agency), sought judicial review before the Federal Court of Appeal of the decision of the Tribunal dated 25 October 2009 in the matter of *Steve Ouellet v. Canadian Food Inspection Agency* (RTA-60361/RT-1424).

[3] On 13 October 2010, the Federal Court of Appeal rendered its decision indicating that the Agency's application is sustained, that the decision of the Tribunal is quashed, and that the matter is sent back to the Tribunal with directions to find that the applicant, Mr. Ouellet (Ouellet) committed a violation of subsection 141(1) of the *Health of Animals Regulations*. The Federal Court of Appeal further directed the Tribunal to determine the appropriate monetary penalty to levy against Ouellet in light of its decision.

[4] On 2 November 2010 the Agency submitted a letter to the Tribunal outlining the Agency's submissions on the appropriate monetary penalty to levy against Ouellet for the violation committed in the case. A copy of this letter was provided to Ouellet by the Tribunal on 3 November 2010.

[5] In its letter, the Agency submits that the penalty in this matter should be \$1,600, a reduction of 20% from the penalty outlined in the original Notice of Violation No. 0708QC0112 dated 31 August 2007. The reason it provides for this reduction is that the violation occurred under particular mitigating circumstances including the short period of time that the animals were not separated from each other in the trailer and the low speed at which the tractor/trailer was travelling at the time of the violation. Under these conditions, the actual conduct that was the basis of the violation would likely only cause minor injury to animals and thus the penalty should be reduced from its original amount to reflect the reduced gravity of the offending actions of Ouellet.

[6] The Tribunal accepts the submissions of the Agency and accordingly determines that Ouellet committed the violation and is liable for payment of the penalty in the amount of \$1600.00 to the Agency within 30 days after the day on which this decision is served.

[7] The Tribunal wishes to inform Ouellet that this violation is not a criminal offence. After five years, he will be entitled to apply to the Minister to have the violation removed from its record, in accordance with section 23 of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*:

23. (1) *Any notation of a violation shall, on application by the person who committed the violation, be removed from any records that may be kept by the Minister respecting that person after the expiration of five years from*

(a) where the notice of violation contained a warning, the date the notice was served, or

(b) in any other case, the payment of any debt referred to in subsection 15(1),

unless the removal from the record would not in the opinion of the Minister be in the public interest or another notation of a violation has been recorded by the Minister in respect of that person after that date and has not been removed in accordance with this subsection.

Dated at Ottawa, this 16th day of November, 2010.

Dr. Donald Buckingham, Chairperson