

Canada Agricultural
Review Tribunal



Commission de révision
agricole du Canada

Citation: Denfield Livestock Sales Limited v. Canada (CFIA), 2011 CART 001

Date: 20110119
Docket: RTA-60328R;
RT-1414

Between:

Denfield Livestock Sales Limited, Applicant

- and -

Canadian Food Inspection Agency, Respondent

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 section 176 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 February 3, 2010 in *Attorney General of Canada (Canadian Food Inspection Agency) v. Denfield Livestock Sales Limited* (2010 FCA 36; FCA file A-575-08), 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 \$500.00 to the respondent within 30 days after the day on which this decision is served.

For reconsideration from the Federal Court of Appeal.
February 3, 2010.

Canada 

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 October 21, 2008 in the matter of *Denfield Livestock Sales Limited v. Canadian Food Inspection Agency* (RTA-60328/RT-1414).

[3] On February 3, 2010, the Federal Court of Appeal rendered its decision indicating that Denfield Livestock Sales Limited (Denfield) “contravened section 176 of the [Health of Animals] Regulations by delivering an animal that was not tagged to the purchaser or the purchaser’s representative. By so doing, it caused the movement of that animal from its farm or ranch as defined in section 172.” (paragraph 31 of the FCA decision). For these reasons, the Federal Court of Appeal allowed the application for judicial review, set aside the Tribunal’s decision dated October 21, 2008, and directed this Tribunal to decide the matter “again on the basis that the respondent [Denfield] caused the movement, within the meaning of section 176 of the Regulations, of an animal not bearing an approved tag.” (paragraph 31 of the FCA decision).

[4] The Tribunal therefore finds that Denfield committed the alleged violation of section 176 of the *Health of Animals Regulations* as set out in the original Notice of Violation 0708QC0030 dated June 14, 2007. The Tribunal, accordingly, orders that Denfield is liable for payment of the penalty in the amount of \$500.00 to the Agency within 30 days after the day on which this decision is served.

[5] The Tribunal wishes to inform Denfield that this violation is not a criminal offence. After five years, it 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 19th day of January, 2011.

Dr. Donald Buckingham, Chairperson