

**AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE  
MONETARY PENALTIES ACT**

**DECISION**

In the matter of an application for a review of the Minister's decision that the Applicant committed a violation pursuant to subsection 176(2) of the *Health of Animals Regulations*, and requested by the Applicant pursuant to paragraph 13(2)(b) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

**Alex Strynadka, Applicant**

**- and -**

**Canadian Food Inspection Agency, Respondent**

**CHAIRMAN BARTON**

**Decision**

**Following an oral hearing and a review of the Minister's decision dated October 30, 2003, the Tribunal, by order, confirms the Minister's decision and orders the Applicant to pay the penalty in the amount of \$500.00 to the Respondent within 30 days after the day on which this decision is served.**

## REASONS

The Applicant requested an oral hearing pursuant to subsection 15(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*. The oral hearing was held in Red Deer on November 17<sup>th</sup>, 2004.

The Applicant made his own submissions.

The Respondent was represented by its solicitor, Ms. Vickie McCaffrey.

The Notice of Violation dated March 18, 2003, alleges that the Applicant, on or about the 18<sup>th</sup> day of March, 2003, at Ponoka, in the province of Alberta, committed a violation namely: “remove or cause the removal of an animal not bearing an approved tag from a farm or ranch other than the farm of origin” contrary to subsection 176(2) of the *Health of Animals Regulations*, which states:

(2) Subject to section 183, no person shall remove, or cause the removal of, an animal from a farm or ranch other than its farm of origin unless the animal bears an approved tag.

## BACKGROUND

In his application for a review of the facts by the Minister, the Applicant admitted transporting the cows from his farm ( which was not the farm of origin) to the auction market without bearing approved tags.

The Applicant relied upon the advice of a provincial brand inspector who told him the approved tags were not required in order to transport these cattle.

The Minister conducted a review of the facts, and on October 30, 2003 issued a decision determining the Applicant committed the violation.

The present review is not another review of the facts, but rather a review of the Minister’s decision.

In order to vary or set aside the Minister’s decision, the Review Tribunal must find that there has been a jurisdictional error or an error in law. The following are some general examples of grounds for relief:

1. Powers are exercised in bad faith.
2. Powers are improperly delegated.
3. Powers are exercised without regard to natural justice or fairness.
4. Powers are exercised for improper purposes.
5. There is no evidence before the Minister to support the decision.
6. A decision is based upon irrelevant considerations.
7. An error is made in the interpretation of related or governing legislation, common law principles generally, or as the principles apply to the facts.
8. A decision is so unreasonable that any reasonable person in the Minister's position could not have made it.

In this case, the Applicant has not alleged any errors of law, and the Tribunal is satisfied the Minister has not committed any.

The Applicant considers that the \$500.00 penalty is very extreme in these circumstances, as he did not deliberately cause the violation. As indicated at the hearing, the Tribunal has no discretion other than to uphold the monetary penalty established by the *Regulations*.

Dated at Ottawa this 23<sup>rd</sup> day of November, 2004.

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Thomas S. Barton, Q.C., Chairman