

**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 paragraph 41(2)(a) 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*.

Mr. Mohran Al - Sayyed, Applicant

- and -

Canadian Food Inspection Agency, Respondent

CHAIRMAN BARTON

Decision

Following a review of the Minister's decision dated September 24, 2004, and all submissions and information relating to the violation, the Tribunal by order, confirms the Minister's decision and orders the Applicant to pay the penalty in the amount of \$2,000.00 to the Respondent within 30 days after the day on which this decision is served.

REASONS

The Applicant did not request an oral hearing.

This is not a review of the facts of the violation 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 of 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.

The facts upon which the Minister reached his decision were not challenged, and the Applicant admitted importing the meat products from Egypt without meeting the prescribed requirements.

The Applicant has not alleged any errors of law, and the Tribunal finds the Minister's decision is legally sound.

The Applicant's lack of knowledge of the import requirements, and exercise of due diligence are not defences to the violation by reason of subsection 18(1) of the *Agriculture and Agri- Food Administrative Monetary Penalties Act*, which states as follows:

18(1) A person named in a notice of violation does not have a defence by reason that the person

(a) exercised due diligence to prevent the violation; or

(b) reasonably and honestly believed in the existence of facts that, if true, would exonerate the person.

The Tribunal further confirms the penalty was properly assessed in accordance with the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*.

Dated at Ottawa this 29th day of November 2004.

Thomas S. Barton, Q.C., Chairman