

**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*.

**Keith McConnell, Maplane Beef Farms, Applicant**

**- and -**

**Canadian Food Inspection Agency, Respondent**

**CHAIRMAN BARTON**

**Decision**

**Following a review of the Minister's decision dated September 27, 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 \$500.00 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.

There was sufficient evidence for the Minister to conclude, on a balance of probabilities, that the Applicant committed the violation.

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

Although the Tribunal sympathises with the Applicant's concerns about the time delay between the time of the violation and time of issuance of the notice of violation, the Notice was issued well within the regulatory limitations.

As such, it is not a matter the Tribunal is allowed to consider.

Dated at Ottawa this 16<sup>th</sup> day of December 2004.

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Thomas S. Barton, Q.C., Chairman