

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

DECISION

In the matter of an application for a review of the facts of a violation of section 40 of the *Health of Animals Regulations*, alleged by the Respondent, and requested by the Applicant pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

Ms. Paulina Rozanski, Applicant

- and -

Canadian Food Inspection Agency, Respondent

CHAIRMAN BARTON

Decision

Following a review of the submissions of the parties including the report of the Respondent, the Tribunal, by order, determines the Applicant did not commit the violation and is not liable for payment of the penalty.

REASONS

The Applicant did not request an oral hearing.

The Notice of Violation dated December 21, 2000, alleges that the Applicant, at 19:00 hours on the 21st day of December, 2000, at Toronto in the Province of Ontario, committed a violation, namely: “*import an animal by product, to wit-meat without meeting the prescribed requirements,*” contrary to section 40 of the *Health of Animals Regulations*, which states:

40. No person shall import into Canada an animal by-product, manure or a thing containing an animal by-product or manure except in accordance with this Part.

Section 19 of the Agriculture and Agri-Food Administrative Monetary Penalties Act requires that the Respondent establish, on a balance of probabilities, that the person named in the Notice of Violation committed the violation identified in the notice.

In this case, the violation identified in the Notice, as established in the report of the Respondent, was the importation of various meat products including sausage, dog food, dog bones and breaded meat product from the country of origin of Hungary, without meeting the prescribed requirements of section 40 of the *Health of Animals Regulations*.

The Tribunal finds, as a matter of fact, that the Applicant did not import goods from Hungary at the time in question, and accordingly did not commit the violation identified in the Notice of Violation.

The evidence of the Applicant discloses that the Applicant arrived in Toronto directly from Poland after a quick seven day trip for a family funeral. The Applicant acknowledges bringing in certain gifts given to her by her family in Poland. Further, the country of origin of certain red wine, imported by the Applicant at the same time, and upon which customs duty was paid, was Poland. There is no evidence to indicate the Applicant was in Hungary, or imported any goods from Hungary.

In establishing that a violation of section 40 of the *Health of Animals Regulations* has been committed, the country of origin is an integral part of the violation identified in the Notice of Violation. In applying the prescribed requirements of section 40, imports from one country of origin may be treated differently than imports from another country of origin.

The Respondent identified the country of origin as Hungary, but the Tribunal finds as a matter of fact, that the Applicant did not import any goods on this occasion from Hungary.

Accordingly, the Applicant did not commit the violation as identified in the Notice of Violation.

Dated at Ottawa this 1st day of March, 2001.

Thomas S. Barton, Q.C., Chairman