

***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 paragraph 34(1)(b) 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*.

Nora Boudjerima, applicant

-and-

Canada Border Services Agency, respondent

MEMBER H. LAMED

Decision

Following an oral hearing and a review of all oral and written submissions, the Tribunal, by order, determines that the Applicant committed the violation and is liable for payment of the penalty in the amount of \$200.00 to the Respondent within 30 days after the day on which this decision is served.

REASONS

A hearing was held in Montréal, Quebec, on May 29th, 2008, at the request of the Applicant.

The Applicant represented herself.

The Respondent was represented by Ms. Rosemary Copeland-Jones.

The alleged Notice of Violation is as follows:

Notice of Violation #3961-07-M-0306 dated November 28th, 2007, alleges that the Applicant, around 6:00 p.m. on November 28th, 2007, in Dorval, in the province of Quebec, committed a violation, namely: “Importation de produits animaux, à savoir du lait ou des produits laitiers sans le certificat exigé,” in violation of provision 34(1)(b) of the *Health of Animals Regulations*, which reads as follows:

34.(1) No person shall import milk or milk products into Canada from a country other than the United States or from a part of such a country, unless

...

- b) the person produces a certificate of origin signed by an official of the government of the country of origin that shows that the country of origin or part of such a country is the designated country or part thereof referred to in paragraph (a).

According to the Respondent's evidence, the Applicant, Ms. Boudjerima, arrived at Pierre Elliot Trudeau International Airport, in Dorval, from Amsterdam, aboard KLM flight 671, on November 28th, 2007. Ms. Boudjerima identified Declaration Card E311 of the Canada Border Services Agency (the Agency) produced at Tab 3, as the one she signed and produced upon her arrival in Dorval. On that declaration, she checked off “no” in response to the question about whether she was bringing in food (fruits, vegetables, meat, eggs, dairy products). According to the evidence at Tab 7 on the Agency's Report, an unsigned transcript of a statement made by officer Mariève Tremblay, Ms. Boudjerima arrived at the first customs control and answered “no” to the question whether she had any food in her luggage or with her. As per the usual method, officer Tremblay circled “no” on the Declaration Card, which appears on the card produced at Tab 3.

At the second control counter, inspector Mr. Benoit Hébert reportedly asked Ms. Boudjerima if she had packed her own luggage, and she answered “yes.” During an inspection of her luggage, Mr. Hébert found three containers of milk (one litre each). Ms. Boudjerima had no certificate of origin for the milk.

Ms. Boudjerima does not deny the events as recounted by the Agency. She explains that she had bought the milk to drink during her trip, not wanting to rely on meals on the plane. She said that she had put the containers of milk into her luggage and that upon her arrival, exhausted, she had forgotten about them.

Although the Tribunal is certain that it was forgetfulness on the part of Ms. Boudjerima, it still concludes that the Agency has established all the aspects of the alleged violation. Ms. Boudjerima’s identity is not contested, nor the fact that she imported three litres of milk without declaring them and without a certificate of origin. As such, the Tribunal orders the Applicant to pay the Respondent the \$200 penalty within 30 days following the date of service of this decision.

Dated at Montréal on September 9th, 2008.

Member H. Lamed