

**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*.

Attila Takacs, 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 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.

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REASONS

The Applicant did not request an oral hearing.

The Notice of Violation dated October 8th, 2001 alleges that the Applicant, at 15:50 hours on the 8th day of October, 2001, at Toronto, in the province of Ontario, committed a violation namely: “import an animal product, to wit: meat without meeting the prescribed requirements,” contrary to section 40 of the *Health 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.

In general, *Part IV* of the *Health of Animals Regulations* permits importation into Canada of most animal by-products, if the country of origin is the United States. If the country of origin is other than the United States, importation into Canada is only permitted (except for certain specified products such as gluestock and bone meal, for which there are other specific requirements) if the importer meets one of the following four prescribed requirements of *Part IV* of the *Health of Animals Regulations*, namely:

1. Under *subsection 41.(1)* if the country of origin has a disease-free designation and the importer produces a certificate signed by an official of the government of the country of origin that shows that the country of origin is the designated country referred to in the disease-free designation.

No such certificate was provided.

2. The importer meets the requirements of *subsection 52.(1)* which provides as follows:

52.(1) Notwithstanding anything in this Part, a person may import an animal by-product if the person produces a document that shows the details of the treatment of the animal by-product and the inspector is satisfied, based on the source of the document, the information contained in the document and any other relevant information available to the inspector and, where necessary, on an inspection of the animal by-product, that the importation of the animal by-product into Canada would not, or would not be likely to, result in the introduction into Canada, or the spread within Canada, of a vector, disease or toxic substance.

No such document was produced.

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3. The importer has acquired an import permit pursuant to *subsection 52.(2)*.

No such permit was tendered.

4. The importer has presented the animal by-product for inspection and a satisfactory inspection has been carried out under *paragraph 41.1(1)(a)* which states as follows:

41.1(1) Notwithstanding section 41, a person may import into Canada an animal by-product or a thing containing an animal by-product, other than a thing described in section 45, 46, 47, 47.1, 49, 50, 51, 51.2 or 53, if

(a) an inspector is satisfied on reasonable grounds that the animal by-product is processed in a manner which would prevent the introduction into Canada of any reportable disease or any other serious epizootic disease to which the species that produced the animal by-product is susceptible and which can be transmitted by the animal by-product, provided that the animal by-product or the thing containing the animal by-product is not intended for use as animal food or as an ingredient in animal food.

No inspection of this nature took place.

The report of the Respondent states that a certain quantity of meat by-product (sausage) from Hungary was found in the luggage of the Applicant and that Applicant imported the sausage without meeting the prescribed requirements of the *Health of Animals Regulations*.

Although the Applicant disputes the quantity of sausage imported, the Applicant admits committing the violation but asks that the penalty be cancelled because the Applicant was unaware of the importance of the *Regulations* and the severity of the fines, was only bringing the sausage into Canada for personal consumption and because the Applicant was a first time offender.

Pursuant to *paragraph 14(1)(b)* of the *Agriculture and Agri-food Administrative Monetary Penalties Act*, the jurisdiction of the Tribunal is limited to determining whether or not the person requesting the review committed a violation, and if so whether the penalty was properly established in accordance with the *Regulations*.

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The Tribunal acknowledges the plight of the Applicant, but has no authority, in any

circumstances, to waive a penalty.

The Respondent has established, on a balance of probabilities, that the Applicant committed the violation.

Dated at Ottawa this 20th of December, 2001.

Thomas S. Barton, Q.C., Chairman