

***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*.

Mr. Marian Plucinski, 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 to the Respondent of the penalty in the amount of \$200.00 within 30 days after the day on which this decision is served.

REASONS

The Applicant did not request an oral hearing.

The Notice of Violation dated August 18, 2000, alleges that the applicant, at 9:40 p.m. on August 18, 2000, at Vancouver International Airport in the province of British Columbia, 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.

In general, *Part IV* of the *Health of Animals Regulations* permits importation into Canada of most of these items, if the country of origin is the United States. If the country of origin is other than the United States, there are various specific requirements for the importer to meet before importation of such items is allowed. In this case, it is clear the country of origin was other than the United States, and that the Applicant was unaware of these requirements.

On entry into Canada, the report of the Respondent indicates that the Applicant had undeclared meat products in his baggage, which undeclared meat was seized and photographed. The report further indicates that an inspector of the Respondent completed a seizure receipt form (CFIA 1275) setting out the country of origin of the meat as Poland, and stating importation of the meat as prohibited.

The Respondent subsequently, on September 21, 2000, carried out two “*Import Requirement*” queries on the Respondent’s “*Automated Import Reference System Computer*”. The queries were done for import requirements for both beef and pork products imported from Poland, and the results showed that these products were prohibited entry to Canada. The Respondent has not explained how this computer system operates, how it is connected with the legislation relating to import requirements for animal by-products, or whether there were any changes in these requirements from the date of the alleged violation, to September 21, 2000. Accordingly, the Tribunal does not give any weight to the results of these computer queries.

The Applicant's main reasons for requesting a review are that there was no mention of specific meat products in the Customs Declaration form, that the instructions by Canadian authorities as to what can and cannot be brought back into Canada should be clearer, and that the Applicant was not aware that dried meat products in such small quantities were not allowed.

The Applicant acknowledges receipt of a gift in Poland of about one (1) kilogram of dried smoked jerky sticks, which the Applicant subsequently described as made of horsemeat mixed with special herbal ingredients.

In a review of this nature, the Respondent must establish, on a balance of probabilities, that the Applicant committed the violation identified in the Notice of Violation.

The Respondent has met this obligation, and in fact, the Applicant has not denied importing meat from Poland contrary to the Regulation in question.

The Tribunal acknowledges that it is very difficult for persons such as the Applicant to fully comprehend what can and cannot be brought into Canada from a foreign country, especially when there may be a language barrier. In this respect, the Tribunal sympathizes with the Applicant. Lack of knowledge of the prescribed requirements, however, is not a valid defence.

Dated at Ottawa this 7th day of November, 2000.

Thomas S. Barton, Q.C., Chairman