

***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. Alich Rajabi, 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 September 8, 2000, alleges that the Applicant, at 13:15 hours on the 8th day of September, 2000, at L.B. Pearson International Airport 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.

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.

The report of the Respondent indicates that the Applicant, on entry into Canada from Iran, had a large sausage, undeclared, inside her carry-on bag. The undeclared meat product from Iran was taken, photographed, seized and subsequently disposed of as international garbage.

Subsequently, on October 6, 2000, the Respondent carried out several “*Import Requirement*” queries on the Respondent’s “*Automated Import Reference System Computer*”. The Tribunal has not taken into account the results of these queries as 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 October 6, 2000.

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The Applicant submits that the Applicant was fatigued upon her return from Iran, and the

Custom's form was filled out quickly. The Applicant was not aware that bringing back sausage from Iran would be a problem. On arrival in Canada, the report of the Respondent indicates that the Applicant thought the Custom's declaration provision was only for animals and not for meat. The Tribunal acknowledges the Applicant had no intention of breaching this Regulation, but, nonetheless, has acknowledged importing meat from Iran contrary to the Regulation in question.

Accordingly, the Respondent has established, on a balance of probabilities, that the Applicant committed the violation identified in the Notice of Violation.

Dated at Ottawa this 16th day of November, 2000.

Thomas S. Barton, Q.C., Chairman