

***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 provision 143(2)(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*.

**Sébastien Blouin, Applicant**

**-and-**

**Canadian Food Inspection Agency, Respondent**

**MEMBER H. LAMED**

**Decision**

**Following an oral hearing and a review of all oral and written submissions, the Tribunal, by order, determines the Applicant committed the violation and is liable for payment of the penalty in the amount of \$500 to the Respondent within 30 days after the day on which this decision is served.**

## REASONS

The Applicant requested a hearing pursuant to subsection 15(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*.

The hearing was held in Sherbrooke, in the province of Quebec on April 23, 2009.

The Applicant represented himself.

The Respondent was represented by Marie-Claude Couture.

Notice of Violation 0809QC0006 dated July 15, 2008, alleges that the Applicant, on the 11<sup>th</sup> day of the month of March, 2008, at Lingwick, in the province of Quebec, committed a violation, namely: "Avoir transporté un animal par véhicule moteur sans que le plancher ne soit couvert de paille, de copeaux ou de tout autre matériau de litière", contrary to provision 143(2)(b) of the *Health of Animals Regulations*, which reads as follows:

143(2)(b) Subject to subsection (3), every railway car, motor vehicle, aircraft or vessel used to transport livestock shall be

- (a) strewn with sand or fitted with safe and secure footholds; and
- (b) littered with straw, wood shavings or other bedding material.

## The evidence

The Respondent called to testify Dr. Henri Carrier, Veterinarian for the "*Ministère de l'agriculture, des pêcheries et de l'alimentation du Québec*" (MAPAQ), who had been employed at the Rousseau slaughterhouse in Lingwick since 2006.

Dr. Carrier testified that on March 11, 2008, an employee at the Rousseau slaughterhouse notified him of the arrival of a truck pulling a metal trailer with the name of the Applicant's business (Boucherie Blouin) printed on the side. In the trailer was a Holstein cow, the twin of a bull, more than 30 months old, its head facing the exit, large and healthy, with the exception of being "spread-eagle", that is to say its legs splayed on either side of its body and unable to stand up. Dr. Carrier restated in his testimony the observations contained in his statutory declaration dated March 13, 2008 (Tab 2 of the Respondent's Report) that the floor of the trailer was made of wood and icy, with "[translation] no apparent bedding, and what little bedding there was, was frozen".

Dr. Carrier testified that he anaesthetized and bled the cow. In the *post mortem* examination he removed and condemned the two buttocks. Dr. Carrier did a full dissection of the buttocks in the presence of the Applicant in the days following March 11, 2008, revealing some recent and less recent lesions. The results of the dissections are described below:

a) Left buttock:

- deposits of coagulated blood at the surface of the internal muscles of the entire buttock;
- visible and major tear in the muscle mass attached to the sacrum, with a very large effusion of coagulated blood;
- presence of coagulated blood in the left coxo-femoral articulation, and a slight tear in the ligament;
- detachment of the internal meniscus of the metatarsal articulation with the tibia;
- blood pooled in the muscles along the femur and in the muscles attached to the tibia; and
- several deposits of coagulated blood between the thigh muscles.

b) Right buttock:

- superficial internal contusions on the thigh, with extensive haemorrhaging all along the thigh and foot;
- extensive muscle tearing around the head of the femur and the muscles attached to the sacrum with extensive haemorrhaging;
- haemorrhaging in the coxo-femoral articulation and partial rupture of the ligament at the head of the femur;
- extensive haemorrhaging in the muscles attached to the femur and tibia;
- further haemorrhaging as well in other muscle masses; and
- the lesions were caused by the animal's fall. They are very recent (fresh) lesions.

It should be noted that Dr. Carrier concluded that these very recent injuries were caused by the animal's fall during transportation.

Sébastien Blouin, the Applicant, testified that he had spread bedding, specifically hardwood shavings, before the trip, which was approximately 40 minutes long. He said that in winter, the bedding tends to accumulate at the front of the trailer, especially when trampled by the animals. He acknowledged that this means that the Holsteins then have less balance. He also said that there was not much straw.

### **Analysis**

The Tribunal accepts the evidence about the lesions suffered by the cow and Dr. Carrier's conclusion that they had occurred during transportation. The tears and haemorrhaging indicated that the lesions were fresh. This evidence is not contradicted by the Applicant. Although no evidence was filed as to the temperature on March 11, 2008, Dr. Carrier and Mr. Blouin agree that it was cold enough for the trailer's wood floor to be icy and slippery and for the bedding to be frozen.

The Tribunal accepts the evidence provided by Mr. Blouin that he had placed bedding on the floor of the trailer before loading the cow. Dr. Carrier corroborated this fact when he said that "[translation] what little bedding there was, was frozen". The question is whether Mr. Blouin met the requirements under paragraph 143(2)(b) of the *Regulations*, which read as follows:

143(2)(b) Subject to subsection (3), every railway car, motor vehicle, aircraft or vessel used to transport livestock shall be

(a) strewn with sand or fitted with safe and secure footholds; and

(b) littered with straw, wood shavings or other bedding material.

(3) Where livestock is expected to be confined in a railway car, motor vehicle or aircraft for not more than 12 hours, the railway car, motor vehicle or aircraft need only meet the requirements of paragraph(2)(a) or (b).

It is understood that because the journey was less than 12 hours, subsection (3) applies.

Specifically, did Mr. Blouin provide enough bedding for the floor to be covered as required under subsection 143(2)? Mr. Blouin himself admitted that there was not much bedding, which was confirmed by Dr. Carrier. The circumstances of this journey, that is to say the temperature one can reasonably expect in the month of March (under 0 degrees Celsius) and the animal's considerable weight, known before loading, argued for care in ensuring that the trailer's floor was adequately covered with bedding, even if the journey was only 40 minutes long. Mr. Blouin said that in winter, the bedding tended to accumulate at the end of the trailer, so he should have spread enough to allow for this winter phenomenon. The cow's injuries are not in and of themselves evidence of a lack of bedding at the start of the journey, but they are related to the other factors discussed, leading to the conclusion that the Respondent established, that the violation was committed. Consequently, the Tribunal orders the Applicant to pay the penalty in the amount of \$500 to the Respondent within 30 days after the day on which this decision is served.

Dated at Montreal, this 9<sup>th</sup> day of June, 2009.

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Member H. Lamed