

**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 subsection 176(2) 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*.

Dwayne Juve, 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 \$500.00 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 July 14, 2003, alleges that the Applicant, on the 14th day of April, 2003, at Kelvington, in the province of Saskatchewan, committed a violation namely: “Did remove or cause the removal of an animal not bearing an approved tag from a farm or ranch other than the farm of origin” contrary to subsection 176(2) of the *Health of Animals Regulations* which states:

176(2) Subject to section 183, no person shall remove, or cause the removal of, an animal from a farm or ranch other than its farm of origin unless the animal bears an approved tag.

The pertinent facts are not in dispute.

The Applicant admits taking an untagged bull to the local auction market. The bull came from the Applicant’s farm, which was not the farm of origin.

The Tribunal sympathizes with the Applicant’s circumstances. The bull had lost its ear tag, was too big for the Applicant’s chute and head gate system and could not be restrained without putting the Applicant or someone else in a dangerous situation. According to the Applicant, although the tagging system has caused considerable anguish, the Applicant is proud of his operation, and this was the first and only untagged animal.

The Applicant considers that under the circumstances, and considering the problems facing the beef industry with the BSE crisis, a warning would have been appropriate. The Applicant further points out the Respondent did not provide a balanced reflection of his conversation with the Respondent.

The jurisdiction of the Tribunal is limited to determining whether or not a violation has been committed, and if so, whether the penalty in the Notice of Violation has been properly established in accordance with the *Regulations*. It has no authority to change a penalty to a warning, nor can it take into account the plight of the Applicant.

These violations are called “strict liability” violations and in this case the Tribunal has no other option but to confirm the Respondent has established, on a balance of probabilities, that the violation was committed.

Dated at Ottawa this 23rd day of September, 2003.

Thomas S. Barton, Q.C., Chairman