

**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*.

Boleslaw Johnson, Applicant

- and -

Canadian Food Inspection Agency, Respondent

CHAIRMAN BARTON

Decision

Not having received the report of the Respondent within the prescribed time limit as extended by the Tribunal under the *Rules of the Review Tribunal (Agriculture and Agri-Food)* or a request by the Respondent for a further extension of the time limit for filing its report, the Tribunal, by order, determines the Applicant did not commit the violation and is not liable for payment of the penalty.

REASONS

The Applicant did not request an oral hearing.

The Notice of Violation dated August 11, 2003 alleges that the Applicant, at 19:15 hours on the 11th day of August, 2003, at Toronto, in the province of Ontario, committed a violation contrary to section 40 of the *Health of Animals Regulations*.

The Tribunal received the Applicant's request for a review on September 5th, 2003. On September 8, 2003, by facsimile and by regular mail, the Tribunal sent a copy of the request for review to the Respondent, asking that, pursuant to section 36 of the *Rules of the Review Tribunal (Agriculture and Agri-Food)* the report be forwarded to the Review Tribunal on or before September 22nd, 2003.

On September 15, 2003, by e-mail the Respondent requested an extension for forwarding the report until October 20, 2003, due to regional workload issues. The Tribunal extended the time for forwarding the report until October 6, 2003.

No response to this e-mail has been received.

In order that the review process be carried out expeditiously and fairly, the Tribunal has informed the Respondent it would proceed with a review without the report, if neither the report nor a request for extension of the time limit was sent to the Tribunal within the prescribed period, or if a request for a time extension was denied.

It should be noted there is no similar means for an applicant to extend the time limit fixed in the *Agriculture and Agri-Food Monetary Penalties Regulations* for filing a request for review.

Section 19 of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* states as follows:

19. In every case where the facts of a violation are reviewed by the Minister or by the Tribunal, the Minister must establish, on a balance of probabilities, that the person named in the notice of violation committed the violation identified in the notice.

Not having forwarded any facts on which to establish, on a balance of probabilities, that the Applicant committed the violation identified in the notice, the Respondent has not proven that the Applicant committed the violation.

Dated at Ottawa this 7th day of October 2003.

Thomas S. Barton, Q.C., Chairman