

**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 181 of the *Health of Animals Regulations*, alleged by the Respondent, and requested by the Applicant pursuant to subsection 8(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

Dawn & Bryce McKenzie, 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.

REASONS

The Applicant did not request an oral hearing.

The Notice of Violation dated September 15, 2003, alleges that the Applicant, on the 8th day of April, 2003, at Saskatoon, in the province of Saskatchewan, committed a violation namely: "Did alter an approved tag to make the identification number unreadable", contrary to section 181 of the *Health of Animals Regulations* which states:

181. No person shall alter an approved tag to change its identification number or to make the identification number unreadable.

The very thorough and well prepared report of the Respondent contains uncontradicted evidence that the Applicants removed portions of the approved tags from a number of their cattle to facilitate feed-lot tags. A number of the approved tags had the identification numbers missing and a number had parts of the bar code missing.

The Respondent has clearly established the Applicants committed the violation.

Although the Applicants were unaware that their actions would lead to a violation, this is not a defence by virtue of subsection 18(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* which states as follows:

18.(1) A person named in a notice of violation does not have a defence by reason that the person

(a) exercised due diligence to prevent the violation; or

(b) reasonably and honestly believed in the existence of the facts that, if true, would exonerate the person.

Dated at Ottawa this 6th day of November, 2003.

Thomas S. Barton, Q.C., Chairman