

**AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE  
MONETARY PENALTIES ACT**

**DECISION**

In the matter of an application for a review of the Minister's decision that the Applicant committed a violation pursuant to section 40 of the *Health of Animals Regulations*, and requested by the Applicant pursuant to paragraph 13(2)(b) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

**Jesusa Sarmiento, Applicant**

**- and -**

**Canadian Food Inspection Agency, Respondent**

**CHAIRMAN BARTON**

**Decision**

**Following a review of the Minister's decision dated June 13, 2002, and all information relating to the violation, the Tribunal by order, confirms the Minister's decision and orders the Applicant to pay the penalty in the amount of \$200.00 to the Respondent within 30 days after the day on which this decision is served.**

## REASONS

The Applicant did not request an oral hearing.

This is not another review of the facts of the violation to determine whether or not the Applicant committed the violation, but is a review to determine whether the Minister's decision is legally sound.

In order to vary or set aside the Minister's decision, the Review Tribunal must find that there has been an error of law. The following are some general examples of errors of law that would provide grounds for this type of relief:

1. Powers are exercised in bad faith.
2. Powers are improperly delegated.
3. Powers are exercised without regard to natural justice or fairness.
4. Powers are exercised for improper purposes.
5. There is no evidence before the Minister to support the decision.
6. A decision is based upon irrelevant considerations.
7. A decision is so unreasonable that any reasonable person in the Minister's position could not have made it.
8. An error is made in the interpretation of related or governing legislation, common law principles generally, or as the principles apply to the facts.

In this case, the Applicant has not alleged any errors of law and the Minister has not committed any.

Accordingly, pursuant to paragraph 14(1)(a) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, the Review Tribunal confirms the Minister's decision.

Dated at Ottawa this 28<sup>th</sup> day of August, 2002.

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Thomas S. Barton, Q.C., Chairman