

**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(1) 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*.

Tom Walsh, Applicant

- and -

Canadian Food Inspection Agency, Respondent

CHAIRMAN BARTON

Decision

Following an oral hearing and a review of the written 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.

REASONS

The Applicant requested an oral hearing pursuant to ss. 15(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*. The oral hearing was held in Barrie on November 14, 2003.

The Applicant represented himself.

The Respondent was represented by its solicitor, Mr. Robert Jaworski.

The Notice of Violation dated April 10, 2003, alleges that the Applicant, on or about 14:45 hours on the 17th day of December, 2002, at Cookstown, in the province of Ontario, committed a violation namely: “did remove or cause the removal of an animal to wit: two Holstein cows, not bearing an approved tag from its farm of origin”, contrary to ss. 176(1) of the *Health of Animals Regulations* which states:

176(1) Subject to section 183, no person shall remove, or cause the removal of, an animal from its farm of origin unless the animal bears an approved tag.

The Applicant agreed he unwittingly committed the violation. The Applicant did tag his beef cattle, but was unaware of the same requirement for dairy cattle as a result of tagging program confusion.

Although the inspector recommended the issuance of a warning, the Applicant was issued a Notice of Violation with a penalty, and requested that in the circumstances, the monetary penalty be waived.

The Tribunal has no authority to amend a Notice of Violation or waive a penalty, its jurisdiction limited to determining whether or not a violation has occurred, and if so, whether the penalty has been established properly in accordance with the *Regulations*.

The Tribunal appreciates the time and effort taken by the Applicant to provide suggestions as to how, in his view, the tagging program could be more effectively administered.

Dated at Ottawa this 19th day of November, 2003.

Thomas S. Barton, Q.C., Chairman