



Citation: *Elsayed v Canada Border Services Agency*, 2025 CART 26

Docket: CART-2025-BNOV-038

BETWEEN:

AHMED MOHAMED TALAAT GABALLAH ELSAYED

APPLICANT

- AND -

CANADA BORDER SERVICES AGENCY

RESPONDENT

BEFORE: Emily Crocco, Member and Chairperson

**WITH: Ahmed Mohamed Talaat Gaballah Elsayed, the Applicant, and
Veronica Raymond, for the Respondent**

VIA WRITTEN SUBMISSIONS

DECISION DATE: August 14, 2025

1. INTRODUCTION

[1] On May 18, 2025, the Applicant arrived in Canada at an airport in Toronto. He was importing fresh chili peppers, which he did not declare.

[2] After discovering the Applicant's chili peppers, the Respondent issued a Notice of Violation (Notice) with a monetary penalty of \$1,300.00 for failing to present the plant products for inspection.

[3] The Applicant has requested that I review the Notice and its penalty. For the reasons that follow, both are confirmed.

2. LEGAL ISSUES

[4] The issues before me are threefold:

1. Did the Applicant fail to present for inspection a plant product that he was importing into Canada, contrary to subsection 7(b) of the [Plant Protection Act](#) (PP Act)?
2. Has the Applicant raised any permissible defences?
3. If the violation is established, was the monetary penalty calculated appropriately?

3. ANALYSIS

The Applicant failed to present the plant products for inspection

The Applicant is properly named

[5] The Respondent's undisputed evidence establishes that the Applicant is properly named in the Notice.

The Applicant imported plant products

[6] On May 18, 2025, the Applicant arrived in Canada as a member of the Egypt Air flight crew.

[7] In his request to the Tribunal, the Applicant briefly acknowledges that he was importing chilli peppers. However, he says that he threw the chilli peppers away.

[8] However, I accept the Respondent's undisputed evidence that the Applicant threw the chili peppers away after he entered Canada.

[9] Specifically, while in the luggage hall in Toronto after primary inspection, one of the Respondent's detector dog teams detected animal, plant or food products in the Applicant's luggage.

[10] Officer Thomas Carruthers asked the Applicant if he was importing any food items and the Applicant said no. Officer Carruthers then observed the Applicant enter a women's washroom. Officer Carruthers followed him. Officer Carruthers looked into the garbage pails. These were empty of any food related items. Officer Carruthers left the washroom.

[11] When the Applicant left the washroom, Officer Carruthers re-entered the washroom and discovered food items in the garbage. Officer Carruthers removed the implicated garbage bag from the washroom and brought it to Officer Raphael Paul. Officer Paul discovered three bags of food in the bag, including chili peppers.

[12] Given this evidence, I accept that the Applicant imported chilli peppers into Canada.

The Applicant failed to declare the plant items

[13] On the declaration form, the Applicant did not declare that he was importing any plant products.

[14] Subsection 7(b) of the *PP Act* requires people entering Canada to declare, at the first opportunity, when they are importing plant products into the country.

[15] As the Federal Court of Appeal noted in *Canada (Attorney General) v. Savoie-Forgeot*, [2014 FCA 26](#) at para 25:

It should be noted that disclosure of goods and making them available for inspection should occur at the first contact with customs officials and not later, when a search is imminent or under way. A traveller is not allowed to gamble that he or she will not be directed to the secondary search area, and to declare the goods only if it appears they will be discovered as a result of a search. Mr. Westphal-Larsen gambled and lost.

Similarly, in this case, the Applicant gambled and lost. He brought plant products into Canada and failed to declare them. This violated subsection 7(b) of the *PP Act*.

[16] By violating subsection 7(b) of the *PP Act*, the Applicant violated section 7 of the *PP Act* (which is what the Notice alleges). It is therefore unnecessary for me to determine whether he also violated subsections 7(a) or (c) of the *PP Act*.

The Applicant's Defence

[17] The Applicant argued that he should not be penalized because it was the "first time" he made this mistake.

[18] Section 18 of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (*AAAMP Act*) states that a person named in a Notice "does not have a defence" by reason that the person either "exercised due diligence" (i.e., tried their best) or "reasonably and honestly believed in the existence of facts that, if true, would exonerate the person" (i.e., made a mistake). Section 18 of the *AAAMP Act* is what makes the system "absolute liability".

[19] As a result, I cannot cancel the Notice even if the Applicant made an honest mistake.

Amount of the Penalty

[20] In this case, the reason the amount of the penalty was \$1,300.00 was because Item 3 of Column 1 of Division 1 of Part 2 of Schedule 1 to the [Agriculture and Agri-Food Administrative Monetary Penalties Regulations](#) (AAAMP Regulations) states that a violation of section 7 of the *PP Act* is a “very serious violation”.

[21] Paragraph 5(1)(c) of the *AAAMP Regulations* states that the amount of the penalty for a “very serious violation” by an individual (who is not a business or trying to make a profit) is \$1,300.00. As a result, the penalty amount was properly calculated.

4. CONCLUSION

[22] The Notice and its penalty are confirmed, and the Applicant shall pay the penalty within 30 days.

Dated on this 14th day of August 2025.

(Original signed)

Emily Crocco
Member and Chairperson
Canada Agricultural Review Tribunal