



Issue Date: May 16, 2022

Citation: *Carr v. Canada (Environment and Climate Change)*, 2022
EPTC 4

EPTC Case No: 0073-2021

Case Name: *Carr v. Canada (Environment and Climate Change)*

Applicant: Bruce Jonathan Carr

Respondent: Minister of Environment and Climate Change Canada

Subject of proceeding: Review commenced under s. 15 of the *Environmental Violations Administrative Monetary Penalties Act*, S.C. 2009, c. 14, s. 126 (“EVAMPA”) of an Administrative Monetary Penalty issued under s. 7 of EVAMPA for a violation of s. 6(3) of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*, S.C. 1992, c. 52 (“WAPPRIITA”).

Heard: April 26, 2022 (by teleconference)

Appearances:

Parties

Counsel/Representative

Bruce Jonathan Carr

Self-Represented

Minister of Environment and
Climate Change Canada

Cody Francon

DECISION DELIVERED BY:

PAMELA LARGE MORAN

Background

[1] This Decision disposes of a request by Bruce Jonathan Carr (“Applicant”) to the Environmental Protection Tribunal of Canada (“Tribunal”) for a review of an Administrative Monetary Penalty (“AMP”) issued by Environment and Climate Change Canada (“ECCC”) on September 29, 2021.

[2] The AMP was issued by ECCC Enforcement Officer Dean Vodden to the Applicant under s. 7 of the [Environmental Violations Administrative Monetary Penalties Act, S.C. 2009, c. 14, s. 126](#) (“EVAMPA”) in respect of an alleged violation of subsection 6(3) of the [Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act, S.C. 1992, c. 52](#) (“WAPPRIITA”).

[3] The Applicant submitted its request for a review to the Tribunal on October 1, 2021, under s. 15 of [EVAMPA](#).

[4] The parties attended a Pre-Hearing Conference with the Review Officer on February 18, 2022, during which procedural issues with respect to a hearing were determined and a Procedural Direction was issued by the Tribunal.

[5] Subsequently counsel for the Minister advised the Tribunal that the Minister would not be calling any evidence on the alleged violation and that the AMP should be cancelled. A hearing was convened on April 26, 2022, by teleconference for the purpose of confirming the parties’ intentions and giving effect to their proposed resolution of this proceeding.

[6] For the reasons set out below, the AMP is cancelled.

Issue

[7] The issue is whether the AMP should be cancelled.

Relevant Legislation and Procedural Framework

[8] The most relevant provisions of [EVAMPA](#) are:

16 At any time before a request for a review in respect of a notice of violation is received by the Chief Review Officer, a person designated under paragraph 6(b) may cancel the notice of violation or correct an error in it.

20(1) After giving the person, ship or vessel that requested the review and the Minister reasonable notice orally or in writing of a hearing and allowing a reasonable opportunity in the circumstances for the person, ship or vessel and the Minister to make oral representations, the review officer or panel conducting the review shall determine whether the person, ship or vessel committed a violation.

(2) The Minister has the burden of establishing, on a balance of probabilities, that the person, ship or vessel committed the violation.

21 The review officer or panel shall render their determination in writing within 30 days after the day on which the review is completed and, without delay, provide the Minister and the person, ship or vessel to which the determination relates with a copy of the determination and reasons. (Emphasis added)

[9] The above sections of [EVAMPA](#) provide the statutory authority and procedural framework for the cancellation decision in this case.

[10] First, s. 16 does not require intervention or a decision from the Tribunal for an ECCC enforcement officer to cancel or correct a notice of violation if the cancellation or correction occurs before the request for review is received by the Chief Review Officer of the Tribunal. By necessary implication, if the enforcement officer proposes to cancel or correct a notice of violation after the request for review was received, the Tribunal is required to determine whether a violation occurred under s. 20(1). Second, the Minister carries the burden to produce evidence establishing that the person named in the notice of violation committed the violation on the civil standard of proof, according to s. 20(2). Third, the Tribunal is then required to render a written determination as set out in s. 21.

[11] If the Minister calls no evidence to prove the violation occurred and upon which the AMP is based, then the Tribunal cannot uphold the AMP. In such event, the Tribunal must render a decision cancelling the AMP and a substantive analysis of the information giving rise to the AMP is, therefore, unnecessary.

Analysis and Findings

[12] During the hearing, the Applicant and the representative for Environment and Climate Change Canada confirmed their request that the AMP issued by Officer Dean Vodden should be cancelled. The Minister's representative then elected to call no evidence to support the alleged violation. As a result, there was no case for Bruce Carr to meet and no reason to proceed further with the hearing. The parties were advised that the AMP would be cancelled with a written decision to follow.

[13] With the consent of the parties, there is no evidence upon which I can find that the violation described in AMP number 9400-8253 occurred. Accordingly, the AMP cannot be upheld.

Decision

[14] The AMP is cancelled.

AMP Cancelled

"Pamela Large Moran"
PAMELA LARGE MORAN
REVIEW OFFICER