



NCN: [2022] UKFTT 497 (GRC)

Appeal number: WA/2021/0008

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
WELFARE OF ANIMALS**

SHAFI FARM LIMITED

Appellant

- and -

FOOD STANDARDS AGENCY

Respondent

DECISION

The appeal is allowed.

REASONS

1. On 24 March 2021 the FSA revoked the certificate of competence of one of the appellant's employees alleging that he had missed a step in the killing process required.
2. In a letter dated 20 September 2021 that certificate was reinstated. That letter referred to this appeal having been successful however, that was followed by further correspondence stating that was an error of language.
3. On 9 November 2021 the Registrar having treated this case as withdrawn I considered an application to consider that afresh and although I decided that the Registrar was correct to have done so I re-instated the appeal in the circumstances at the time and made directions.

4. On 23 December 2021 the respondent indicated that it did not intend to defend the appeal.
5. In its position statement of 7 January 2022 the FSA stated that following a review of the CCTV evidence, they concur with the appellants that this evidence may not support a conclusion that Mr Shah missed a bird as alleged in its case which formed the heart of the revocation decision of 24 March 2021.
6. The FSA submit that as they concede that the revocation of the CoC should be overturned the remaining grounds of appeal are therefore academic. However, as I have previously pointed out that is a remedy sought and not a ground of appeal.
7. The essence of the FSA position as explained in its position statement is that the evidence they relied upon to take the decision under appeal is not sufficient to satisfy the tribunal to the requisite standard that Mr Shah committed the acts/omission as they originally alleged amounted to a contravention of the Welfare at the Time of Killing (England) Regulations 2015. This is different to their position previous to my decision to reinstate this appeal, which made no concession about the inadequacy of their evidence.
8. Both parties have consented to this appeal being determined on the papers and I agree that a fair and just decision can be made in this case without a hearing in accordance with the overriding objective.
9. There being no evidence on which the respondent seeks to uphold its revocation of the certificate of competence, pursuant to regulation 22(4), I overturn the decision of 24 March 2021.
10. It is not necessary for me to go on to consider whether the FSA are entitled to expand on the reasons set out in the notice as they do not seek to do so. Nor is it necessary or proportionate for me to decide whether the notice was in any other way tainted with illegality.
11. I apologise to the parties for the time it has taken to promulgate this decision.

Lynn Griffin
Tribunal Judge Lynn Griffin
30 September 2022