

Canada Agricultural  
Review Tribunal



Commission de révision  
agricole du Canada

Ottawa, Canada K1A 1J4

Date: 20180831  
Docket: CART/CRAC-1965

**Sobeys West Inc.**

**APPLICANT**

**- and -**

**Canadian Food Inspection Agency**

**RESPONDENT**

**BEFORE: Chairperson Luc Bélanger**

**WITH: Mr. Martin S. Minuk, for the Applicant; and  
Ms. Meghan Riley, for the Respondent**

In the matter of the Applicant's request for review, made pursuant to paragraph 9(2)(c) of the [\*Agriculture and Agri-Food Administrative Monetary Penalties Act\*](#), of a violation of paragraph 7(a) of the [\*Plant Protection Act\*](#), as alleged by the Respondent.

**ORDER FOLLOWING THE CASE MANAGEMENT  
CONFERENCE CALL OF AUGUST 23, 2018**

## **1. ORDER OF THE PROCEEDINGS**

[1] The parties have agreed on the order of the proceedings for the oral hearing in the matter of CART | CRAC-1965, concerning Notice of Violation 1718WA0013.

[2] The Respondent will proceed first, given that they have the burden of proving that the Applicant committed the alleged violation identified in the Notice of Violation.

## **2. LIST OF WITNESSES OF THE PARTIES**

[3] The Respondent has provided a witness list which included: Mr. Josh Nimchuk and Ms. Rebeka Klassen, both inspectors for the Respondent, and Ms. Cathy Lissel, investigator for the Respondent.

[4] The Applicant expressed the need to call four witnesses to provide evidence and establish various facts related to the issuance of the Notice of Violation. These witnesses are: Mr. Dan MacLaren (Quality Control Manager – Produce & Floral for the Applicant), Mr. Allan Wiegner (Quality Control Specialist for the Applicant), Mr. Joe Soe (Produce Sourcing Manager for the Applicant) and Mr. David Vonnahme (Produce Sourcing Specialist for the Applicant).

[5] The Applicant also intends to call two additional witnesses, Mr. Olivier Morin (National Operations Specialist for the Respondent) and Daniel Mattimoe (Director of Regulatory Affairs for the Applicant).

[6] The Tribunal is mindful that it is mandated to deal with matters that come before it as informally and expeditiously as possible while respecting considerations of natural justice and fairness (subsection 8(4) of the [Canada Agricultural Products Act](#)). Additionally, the Tribunal's rules of procedure further emphasize the need to be just all the while being both expeditious and inexpensive (section 3 of the [Rules of the Review Tribunal \(Canada Agricultural Review Tribunal \(Rules\)\)](#)).

[7] I **ORDER** the Applicant to provide written submissions on the relevancy and necessity of the testimony of Mr. Morin and Mr. Mattimoe to be physically present at the hearing. This information must be provided to the Tribunal by **September 14, 2018**.

[8] Furthermore, I **ORDER** the Applicant to provide the email dated from July 11, 2018, between Mr. Morin and Mr. Mattimoe. This communication must be provided to the Tribunal by **September 14, 2018**.

[9] Once the Applicant has provided these details to the Tribunal, the Respondent will be allowed two weeks to provide written submissions in response to Applicant submissions.

[10] With these considerations in mind, I encourage the parties to consider providing affidavit evidence for some of their witnesses, instead of having them testify at the hearing. On this point, I invite the parties to familiarize themselves with section 21 of the [Rules](#) and the Tribunal's [Practice Note #17 – Use of Affidavit Evidence](#).

### **3. EVIDENCE TO BE PRESENTED**

[11] The parties have agreed that they will exchange the relevant documentation to be presented at the hearing. I **ORDER** the parties to submit a Joint Book of Documents for use at the upcoming hearing by October 19<sup>th</sup>, 2018.

### **4. ADMISSIONS**

[12] Additionally, by **September 27, 2018**, the parties will indicate whether any of these facts can be freely admitted to in order to shorten the hearing time.

### **5. HEARING DATE**

[13] The hearing will be set from **November 13 to November 15, 2018**, in Winnipeg, Manitoba, starting at 9:30 a.m.

Dated at Ottawa, Ontario, on August 31, 2018.

(Original signed)

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Luc Bélanger  
Chairperson  
Canada Agricultural Review Tribunal