



Date: 20190208  
Docket: CART | CRAC-1988

**Way-Alta Livestock Ltd v Canada (CFIA)**

**APPLICANT**

**- and -**

**Canadian Food Inspection Agency,**

**RESPONDENT**

**BEFORE: Patricia L. Farnese**  
**Part-time member**

**WITH: Ms. Lacey Barkley representing the Applicant; and**  
**Ms. Jennifer Lee representing the Respondent**

In the matter of an application to the Canada Agricultural Review Tribunal (Tribunal) pursuant to subsection 12(2) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (*AAAMP Act*), for a review of decision #1718WA0181, rendered June 8, 2018, in which the Minister's delegate held that the Applicant violated paragraph 138(2)(a) of the [Health of Animals Regulation](#) (*HA Regulation*).

**ORDER ARISING FROM THE MANDATORY CASE MANAGEMENT CONFERENCE CALL  
HELD ON JANUARY 30, 2019.**

## **1. BACKGROUND TO THE CURRENT ORDER**

[1] On June 26, 2018, the Tribunal received a fax from the Applicant requesting a review of the Minister's Decision which held that the Applicant violated paragraph 138(2)(a) of the [HA Regulation](#).

[2] On September 11, 2018, the Tribunal received the initial request by registered mail.

[3] On October 10, 2018, the Tribunal found the request admissible.

[4] On December 28, 2018, the Tribunal sent a letter to the parties to enquire about their availability for a Mandatory Case Management Conference Call (CMCC).

[5] On January 3, 2019, the Applicant confirmed via email that his daughter-in-law, Lacey Barkley, is available on January 30, 2019 at 10:00am (prairie time) and would represent him at the CMCC.

[6] On January 16, 2019, the Respondent confirmed via email that they are available January 30, 2019, at 10:00am (prairie time) for the CMCC.

[7] On January 17, 2019, the Respondent confirmed that the Department of Justice Litigator assigned to the file is Jennifer Lee, and that she would be the one representing the Respondent at the CMCC.

[8] On January 21, 2019, the Tribunal received an email from the Applicant requesting to submit additional information.

[9] On the same day, the Tribunal sent a letter to the Respondent asking that they submit their objections (if any) to the Tribunal by January 22, 2019.

[10] On January 22, 2019, the Respondent replied via email that they would require a copy of the documents in question before they could respond to the Applicant's request to submit new evidence and proposed that the matter be addressed at the CMCC scheduled for January 30, 2019.

## **2. CASE MANAGEMENT CONFERENCE CALL**

[11] Both parties were present during the CMCC.

[12] The parties raised no issues related to conflict of interest or impartiality in regards to me presiding over the hearing for the review of the Minister's Decision dated June 8, 2018, concerning Notice of Violation #1718WA0181.

[13] Subject to any successful applications on the admissibility of new evidence, the parties agreed that the evidentiary record will consist of documents in the Minister's Violation Brief.

[14] Both parties requested permission to submit new evidence to the Tribunal.

[15] The parties have agreed that:

- a. The hearing will last three (3) days;
- b. The hearing will be held from May 8-10, 2019 in Calgary, Alberta;
- c. Subject to any new evidence being admitted, the Applicant will call two (2) witnesses and the Respondent will call five (5) witnesses;
- d. The hearing will begin at 9:30am and conclude at 3:00pm on May 8, 2019 and begin at 9:30am and conclude at 4:30pm on May 9 and 10, 2019.

[16] I alerted the parties to the appeal in *Gantcheff v Canada (Minister of Public Safety and Emergency Preparedness)*, 2018 CART 14 (*Gantcheff*). The parties have agreed that if they wish to adjourn this matter until the Federal Court of Appeal (FCA) has rendered its decision in [Gantcheff](#), they will notify the Tribunal by February 8, 2019.

[17] The Applicant's Representative asked if Way-Alta Livestock Ltd. had to be present at the hearing, I informed the parties that I would deliberate on this issue.

### **3. ORDERS**

[18] I **ORDER** that the Violation Brief previously submitted by the Respondent is admitted into evidence.

[19] I **ORDER** that both parties are given until **February 8, 2019**, to file written submissions in regards to their request to submit new evidence.

[20] I **ORDER** that following the reception of the above-mentioned written submissions, the parties must provide to the Tribunal, by **February 15, 2019**, written responses to the other parties' request.

[21] I **ORDER** that the parties must inform the Tribunal by **February 8, 2019**, if they wish to adjourn this matter until after the FCA completes its judicial review of the [Gantcheff](#) decision.

[22] Given the fact that the Tribunal will hear witness testimony at the hearing, I **ORDER** that Way-Alta Livestock Ltd. must be present at the hearing.

Dated at Saskatoon, Saskatchewan, on this 8<sup>th</sup> day of February 2019.

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Patricia L. Farnese  
Part-time Member  
Canada Agricultural Review Tribunal