

Canada Agricultural
Review Tribunal



Commission de révision
agricole du Canada

K1R 7Y3

Date: 20190412
Docket: CART - 1988

Way-Alta Livestock Ltd.

APPLICANT

- and -

Canadian Food Inspection Agency

RESPONDENT

**BEFORE: Patricia L. Farnese
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 APPLICANT'S REQUEST TO CHANGE THE START DATE OF
THE HEARING**

1. BACKGROUND

[1] On March 27, 2019, following a Mandatory case management conference where the parties' availability was confirmed, an ORDER was rendered which provided that a hearing was scheduled in the above matter on May 8 to May 10, 2019.

[2] On April 4, 2019, Ms. Barkley, the Applicant's representative, asked whether it would be possible to have the hearing dates changed to May 7 to 9, 2019. The sole reason for requesting the change of date is because she will now be travelling on May 10, 2019, instead of her original plan to do so on May 11, 2019.

[3] In response to the Applicant's request, the Respondent stated that in order to proceed on May 7, 2019, travel arrangements will need to be altered and the availability of witnesses will need to be confirmed. The Respondent also stated, after the Tribunal inquired about the possibility of holding a two-day hearing instead of the scheduled three days, that it could likely be prejudiced if the time allowed, to present evidence, was reduced.

2. CONSIDERATIONS

[4] Although, section 40 of the [*Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)*](#) (*Tribunal Rules*) allows the Tribunal to postpone or adjourn a hearing, there is no statutory right or entitlement to a change of hearing date. The Tribunal's discretionary power to change a hearing date should not be exercised without valid reasons. This, of course, requires balancing the interests of each of the parties while ensuring that the proceedings are conducted in a matter that is just, most expeditious and least expensive.

[5] The Tribunal is not convinced that the reasons provided by the Applicant warrants changing the hearing dates. Moreover, the hearing has been set after the parties confirmed their respective availability, resources have been engaged and witnesses have made travel arrangements in order to attend.

3. ORDER

[6] I ORDER that the Applicant's request to change the date of the hearing is refused and the matter is to proceed as scheduled on May 8 to 10th, 2019.

[7] I ORDER that if the Applicant requires an adjournment or a postponement of the hearing, she must make a formal request in accordance with the [Tribunal Rules](#), the Tribunal's [Practice Note](#) # 4 and provide compelling reasons in order for her request to be granted.

[8] Lastly, the Tribunal takes the opportunity to remind the Applicant that failure to attend the hearing may result in the application being heard and dismissed pursuant to section 39 of the [Tribunal Rules](#).

Dated at Saskatoon, Saskatchewan, on this 12th day of April 2019.

(Original signed)

Patricia L. Farnese
Member
Canada Agricultural Review Tribunal