Docket: CART -1963

C.I. HISHON TRANSPORT INC.

APPLICANT

- AND -

CANADIAN FOOD INSPECTION AGENCY

RESPONDENT

BEFORE: **Luc Bélanger, Chairperson**

WITH: **Mr. William James Weir representing the Applicant; and**
               Ms. Haniya B. Sheikh representing the Respondent

ORDER DATE: **December 3, 2020**

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 an alleged violation of subsection 140(2) of the *Health of Animals Regulations*.

ORDER FOLLOWING THE MANDATORY CASE MANAGEMENT CONFERENCE CALL HELD ON OCTOBER 15, 2020

Canada

1. BACKGROUND TO THE CURRENT ORDER

[1]   On July 5, 2017, the Canada Agricultural Review Tribunal (Tribunal) received C.I. Hishon Transport Inc.'s (Applicant) request for a review of Notice of Violation (NOV) #1516ON0041. The Applicant allegedly transported or caused to be transported animals in an overcrowded conveyance, contrary to subsection 140(2) of the *Health of Animals Regulations* (*HA Regulations*).

[2]   The hearing for this matter was scheduled on February 12 and 13, 2020, in Guelph, Ontario. Prior to the hearing, one of the witnesses, Mr. Laverty, informed the Tribunal that he was unavailable to testify at the hearing. In an **ORDER** dated February 5, 2020, I held that the matter would proceed as scheduled and stated the testimony of Mr. Laverty's would be presented via videoconference at an ulterior date following the hearing.

[3]   In light of the Covid-19 pandemic, matters before the Tribunal we're postponed to ensure the safety and health of the Tribunal employees and of those who appear before the Tribunal. On October 1, 2020, the Tribunal informed the public it would resume holding case management conference calls (CMCC), will begin holding virtual hearings and remains committed to being as flexible as reasonably possible in assisting the public to deal with this extraordinary situation.

[4]   On October 15, 2020, the Tribunal held a CMCC to discuss completing the hearing by having Mr. Laverty testify, inform the parties of the virtual hearing process and establish a date for the matter to proceed.

2. AGREED PROCEEDINGS

[5]   During the CCMC, the parties confirmed the validity of the *Agreed statement of facts, Agreed list of documents* and the *Joint hearing plan* previously submitted. Accordingly, they do not intend to file additional documentary evidence prior to the hearing.

[6]   With regards to the order of the proceedings at the hearing, both parties agreed that the examination, cross-examination and if necessary the re-examination of Mr. Laverty should take approximately 2 hours. Once Mr. Laverty's testimony is complete both parties will make their respective closing arguments.

3. HEARING

[7]   The parties were comfortable with the virtual hearing process and agreed it could proceed via videoconference. The parties were also informed that Mr. Laverty cannot be in the same room with the party who called him to testify and that he needs to use an electronic device dedicated to him in order to participate.

[8]   At the CMCC, I clearly explained the process and the procedure for a virtual hearing before the Tribunal. The parties will receive detailed written instructions by **December 29, 2020.**

[9]   The parties and Mr. Laverty are required to join the virtual hearing **45 minutes prior to its beginning**. The parties are also responsible to transmit the instructions to their respective witnesses. Finally, the parties and Mr. Laverty will need to have the full evidentiary record before them for the duration of the virtual hearing.

4. ORDERS

[10]   Given the parties availability, I **ORDER** that the hearing will be held on **January 6, 2020**.

[11]   I **ORDER** the parties and Mr. Laverty to follow the instructions to be provided by **December 29, 2020**, and be present 45 minutes prior to the beginning of the virtual hearing.

Dated at Ottawa, Ontario, on this 3rd day of December 2020.

(Original signed)

_____

Luc Bélanger
Chairperson
Canada Agricultural Review Tribunal