

Klaas Korthuis d.b.a. Try Poultry Farms v. BC Chicken Board

Decision Date: June 26, 2000

Keywords: authority of commodity board, enforcement, monetary penalties, production penalties, quota, suspension of quota, statutory interpretation, unfair treatment

Issue:

This was an appeal from a decision from the Chicken Board as a result of unauthorized production ordering the appellant to stand down production for a period of 381 days or until September 7, 2000 when chicks could again be placed.

Decision:

The appellant argued that the Chicken Board does not have the general power to impose the over-production penalties upon him, merely the power to revoke or reduce quotas which cannot be used for penal purposes. He went on to argue that the penalty arose from an unstructured inappropriate exercise of administrative discretion and that the penalty was inordinate as it would result in a \$40,000 loss to him. Therefore, it should be set aside.

The Chicken Board argued that it has the requisite statutory power; that the suspension of the appellant's quota was not inordinate, but calculated to account directly for the appellant's unauthorized production and in line with penalties made in similar situations in the past; and that, while the process may not have been perfect, the appellant was given an opportunity to meet and make submissions to the Board regarding its decision.

The panel supported the position of the Chicken Board that it has broad and comprehensive powers to impose penalties and agreed that the legislative intent was to empower commodity boards to take effective enforcement action. The panel ruled that the Chicken Board has clear statutory authority to take reasonable administrative action to reduce production under a licence when the action is taken not only to compensate, but to discourage conduct in contravention to its orders. Further, the panel ruled that this "stand down" decision was not really a penalty since the appellant had already produced and been compensated for chicken he was lawfully allowed to produce during this stand down time. In essence, if the appellant was allowed to commence production on September 7, 2000, as stated in the Chicken Board decision, he would be in a better position than if he had proceeded lawfully. Therefore, the panel ruled that the appellant's under production should be cancelled.

Order:

The appeal was dismissed and, in addition, the Chicken Board was directed to cancel the appellant's under production.