

1981

7/8/81

IN THE MATTER OF THE NATURAL PRODUCTS  
MARKETING (BRITISH COLUMBIA) ACT

AND

IN THE MATTER OF AN APPEAL TO  
THE BRITISH COLUMBIA MARKETING  
BOARD FROM A DECISION OF THE  
BRITISH COLUMBIA CHICKEN  
MARKETING BOARD

BETWEEN:

F. M. FLOCKSTRA Appellant

AND:

BRITISH COLUMBIA CHICKEN  
MARKETING BOARD Respondent

F. M. FLOCKSTRA Appearing on his  
own behalf

JOHN J.L.HUNTER Appearing for the  
Respondent

Members of the Board hearing  
the Appeal  
Chas.E.Emery,  
Chairman  
E.Mona Brun,  
Martin Hunter,  
Nigel Taylor and  
Robert Reynolds-Members

DONALD A. SUTTON Counsel for the Board

This Appeal was brought on pursuant to the  
provisions of the Natural Products Marketing (British Columbia)  
Act and was heard in Richmond, B.C. on Tuesday, June 2nd, 1981.

The Appellant is appealing a decision of the Respondent declining to issue to him additional roaster quota by virtue of Regulation No. 1 M -162-1981 which was issued by the Respondent on February 5th, 1981.

The facts of the case are not in dispute. On July 27th, 1976, the Appellant became a registered roaster grower and continued as such until some time in the month of October, 1978, when the Respondent granted his request to convert the roaster quota he held to broiler quota, which he then merged with a broiler quota he had just purchased. At this time he became a broiler grower and ceased to be a roaster grower. On December 20th, 1979, the Respondent, upon being requested by the Appellant to do so, granted him a 14,000 lb. secondary broiler quota. The Appellant had argued that he had been unfairly treated with respect to a cornish permit which had been cancelled when he converted to broiler quota, and the Respondent granted the secondary quota on compassionate grounds.

Regulation No. 1M-162-1981 is entitled "Roaster Quota Allocation". Section iii entitled "Secondary Roaster Quota" provides that "Each roaster grower who was registered on or before September 1st, 1978 under this order is granted a 11,427 pound secondary roaster quota provided ....."

The appellant argued before this Board that, as he was a registered roaster grower on the qualifying date contained in the regulation, he should have issued to him the additional secondary roaster quota provided for in the regulation. In refusing to grant the quota, the Respondent stated that, although the Appellant was, as required, a registered roaster grower on September 1st, 1978, he very shortly after that, at his own option, converted to a broiler grower, and therefore was not a roaster grower on the date the Regulation became effective and thus did not qualify.


In argument, the Respondent referred to the case of A. M. Van der Wereld and the Respondent, reported on May 1st, 1981, where under circumstances somewhat similar to the present case, this Board decided that, as Van der Wereld was not a registered roaster grower on the qualifying date, i.e. September 1st, 1978, as called for in the Regulation 1M-162-1981, he did not qualify for additional roaster quota. This Board stated that in coming to its decision, it acknowledged the importance of consistency in adhering to dates of qualification related to quota issuance. The Respondent urged that this reasoning should prevail in the present case.

This Board has come to the conclusion that the Respondent's argument must prevail. It has determined that the terms of qualification, namely being a registered roaster grower both on or before September 1st, 1978 and on February 5th, 1981, were consistent with the recommendations of the Broiler Enquiry Committee and the reasons contained in the Van der Wereld case. The Appellant did not meet the requirements contained in the Regulation and therefore the Appeal is dismissed.

It is hereby ordered that the deposit lodged by the Appellant shall be forfeited in its entirety to the Minister of Finance.

DATED at Richmond, B. C. this 8<sup>th</sup> day

of July, 1981.

  
CHAS. E. EMERY- CHAIRMAN  
BRITISH COLUMBIA MARKETING BOARD