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BRITISH COLUMBIA MARKETING BOARD

IN THE MATTER OF AN APPEAL PURSUANT TO
THE NATURAL PRODUCTS MARKETING (B.C)
ACT, R.S.B.C. 1979, c. 296, s. 11

BETWEEN:

DONALD B. COATES

APPELLANT

AND:

BRITISH COLUMBIA MUSHROOM MARKETING BOARD

RESPONDENT

REASONS FOR JUDGMENT

Appearances:

Donald B. Coates on his own behalf
L.G. Pilchak, A. Ethier, and M.A. Dube
on behalf of the Respondent

1. Donald B. Coates, (Appellant) appealed a decision of the British Columbia Mushroom Marketing Board to the British Columbia Marketing Board on February 27, 1984 at 10:00 o'clock a.m. in Richmond, B.C.

2. The Notice of Appeal, dated February 5, 1984, states as follows:

"I would like to appeal to the B.C. Marketing Board, the October 5, 1983 and subsequent January 19, 1984 decision of the B.C. Mushroom Marketing Board to refuse to grant me a Growers

Licence. The reasons for which I make this appeal are as follows:

- (a) When I initially enquired for an application form for a licence I was refused one, but was advised that I did not need one until my barn was complete and could send for one then. In short, I was led to believe I would receive a licence when I needed it.
- (b) The B.C. Mushroom Marketing Board has repeatedly refused to give me any specific reasons for not granting me a licence never mind any reasons under the Natural Products Marketing (B.C.) Act, or any other legislation.
- (c) I can find no authority granted within the Act which allows the B.C. Mushroom Marketing Board to refuse the granting of a licence, providing certain criteria are met, such as the payment of a set fee.

In my opinion, the B.C. Mushroom Marketing Board is trying to control the production of mushrooms in the province of British Columbia through the non issuance of licences. I believe this to be a misuse of their powers and appeal their decision to the British Columbia Marketing Board. Please find enclosed a cheque for the sum of one hundred dollars."

3. The B.C. Mushroom Marketing Board, and the B.C. Mushroom Scheme, were established by Order in Council No. 2265/66 pursuant to the Natural Products Marketing (B.C.) Act, R.S.B.C. 1979, c. 296.

4. The Mushroom Marketing Board Orders, made by the B.C. Mushroom Marketing Board pursuant to the Natural Products Marketing (B.C.) Act and the B.C. Mushroom Scheme, were established by B.C. Reg. 216/66.

5. In his submission, Mr. Donald Coates reviewed the grounds by appeal as set out in the February 5 Notice of Appeal. Mr. Coates then reviewed the history of his application for a licence as follows:

- August 24, 1982 - Mr. Coates travelled to Langley to meet with then Chairman of the Mushroom Board, Mr. Blumme, was given a copy of the applicable legislation, and was told to write to request a licence application.
- June 16, 1983 - Mr. Coates wrote to the Mushroom Marketing Board requesting an application on a grower's licence.
- July 7, 1983 - The Mushroom Marketing Board sent an application form to Mr. Coates.
- July 11, 1983 - Mr. Coates sent his application for a growers licence to the Mushroom Marketing Board.
- Oct. 3, 1983 - Mr. Coates travelled to Langley to request a reply from the Mushroom Marketing Board.
- Oct. 5, 1983 - The Mushroom Marketing Board informed Mr. Coates that a grower's licence would not be issued.
- Oct. 13, 1983 - Mr. Coates requested another grower's licence application and asked certain questions about the denial of the issuance of the licence.
- Jan. 16, 1984 - Mr. Coates made a second application for a grower's licence.
- Jan. 19, 1984 - The Mushroom Marketing Board refused Mr. Coates second application for a grower's licence.
- Feb. 5, 1984 - Mr. Coates filed his Notice of Appeal.

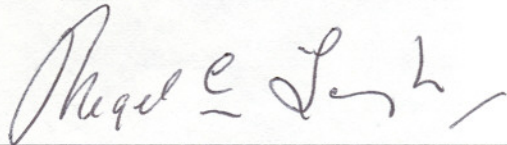
6. The Respondent submitted that the Mushroom Marketing Board has the statutory authority to deny producer licences

and that conditions in the mushroom industry are such that production should be limited by refusing to issue grower licences.

7. The B.C. Marketing Board finds no authority under the B.C. Mushroom Scheme for the B.C. Mushroom Marketing Board to deny a licence for the production of mushrooms. Such authority is capable of being granted by Cabinet under s. 13(1)(a) of the Natural Products Marketing (B.C.) Act but has not been so granted under the B.C. Mushroom Marketing Scheme.

8. The appeal is allowed and the decision of the B.C. Mushroom Marketing Board made on the 19th day of January, 1984, refusing to grant a licence to Donald B. Coates, is varied to cause a licence to be issued to the appellant forthwith.

DATED the 28th day of February, 1984 in
British Columbia.



N. TAYLOR, VICE CHAIRMAN



H. BLACK



M. BRUN