

89 Chicken Ranch Ltd. And Texas Broiler Ranch Ltd. v. BC Chicken Marketing Board

Decision Date: August 3, 2001

Keywords: allocation of quota, exercise of discretion, leased barn space, scope of appellate review, transfer of quota

Issue: Should the Chicken Board have refused to allot primary and secondary quota to the appellants after period A-39 pending the purchase of property and production space?

Decision:

In August 2000, the Chicken Board enacted new Regulations. To prevent long term leasing of quota, under Schedule 12 of these new regulations, growers were permitted to lease out their quota only until July 1, 2001. The appellants requested an exemption from the new regulations to allow leasing of their quota pending the renovation of a new farm which they had purchased. Their request was denied with no reasons given. The appellants argued that the new regulations allowed the Chicken Board to exercise its discretion in exempting a grower from the leasing provisions in circumstances of necessity such as theirs where there had been damage to or destruction of a registered premise. The appellants further argued that they had made concerted attempts to relocate their quota and get back into production but needed one more eight week cycle to complete renovations and would be in production by August 28, 2001.

The Chicken Board argued that the appellants had been given numerous concessions over the years and had been on notice since 1999 that their ability to lease all of their quota without restriction was coming to an end. The Board stated that it had spent a great deal of time consulting the broad industry on the new regulations and saw no compelling reason to modify them to further accommodate the appellants.

The panel accepted the evidence of the appellants that they had made diligent efforts to relocate their operations to the Lower Mainland and needed one more cycle to ready their new barns to begin producing their own quota. The panel noted that the Chicken Board gave no evidence that it had considered exercising its discretion in this case or an explanation of why the appellants failed to fall within the exemption in its regulations. The panel concluded that the appellants did fit into the exemption of the Chicken Board regulations for damaged or destroyed premises and that it was appropriate to give the appellants one more cycle to complete their renovations.

Order:

The appeal was granted.

This order was successfully appealed to the BC Supreme Court but overturned by the BC Court of Appeal.