

Bill Pottruff v. BC Egg Marketing Board

Decision Date: October 25, 2001

Keywords: enforcement; frivolous, vexatious or trivial; jurisdiction (BCFIRB); order, decision or determination; statutory interpretation

Issue: Mr. Pottruff was appealing a decision of the Egg Board to commence a Supreme Court action to recover unpaid marketing licence fees.

Decision:

The Egg Board appealed to have the matter summarily dismissed as frivolous, vexatious or trivial. It argued that the issues raised by the appellant were more properly a defence to the Supreme Court action and could not be appealed to the Provincial board (now BCFIRB) because the commencement of a proceeding in Supreme Court could not be characterized as an “order, decision or determination of a marketing board” under s. 8 of the *Natural Products (BC) Act* which gives the right of appeal. The Egg Board stated that there was no legitimate issue of the ability of commodity boards to commence proceedings before the Supreme Court as that is expressly authorized by the provisions of ss. 15 and 17 of the *Act*. The Egg Board further argued that the Provincial board had already addressed the prospect of proceedings before the Supreme Court in its decision of January 17, 2001.

The appellant argued that he was in compliance with the Provincial board’s decision of January 17, 2001 and if the Egg Board had not been satisfied with that decision, it could have appealed to the Supreme Court. Since it did not, it must have accepted the terms and conditions of the decision. He argued that the Supreme Court action was a separate decision of the Egg Board and therefore subject to appeal. He further argued that any actions he took in defending the Supreme Court action were taken out of legal necessity and not relevant to this appeal.

The panel noted that the key question arising here was whether there was a decision of the Egg Board subject to appeal. The panel concluded that there was not as the Provincial board does not have jurisdiction to enforce a commodity board’s orders; therefore, the commodity board’s only option is to seek the aid of the Courts to do so. The panel further noted that the *Act* gives commodity boards the independent right to commence litigation in the Courts and that it is for the Courts to determine the validity of a request for enforcement. The panel agreed with the Egg Board that the decision to seek enforcement was “subsumed within the proceeding itself”.

Order:

The appeal was dismissed.