

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Nova Scotia Turkey Producers Marketing Board v. Nova Scotia (Attorney General)
2008 NSSC 191

Date: 20080619

Docket: S.K. No. 276502

Registry: Kentville

Between: Nova Scotia Turkey Producers Marketing Board,
a body corporate

Plaintiff

v.

The Attorney General for the Province of Nova Scotia,
Natural Products Marketing Council, a body corporate,
Andre Merks and John Merks

Defendants

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Judge: The Honourable Justice Gerald R P Moir

Heard: 7 March 2008 at Kentville

Subject: Judicial Review; Standard of Review; Commodity Boards; Suspension of Licence

Summary: The Marketing Council asserted that it, rather than the Turkey Board, had the power to suspend, revoke, or withhold a licence issued by the board to the Merks. The board asked the council to hold a suspension hearing, but when the hearing was convened the board asserted that it had the authority and, also, that the council reversed an onus on the Merks by requiring the board to present its case first. The board withdrew. Then, the council dismissed the application.

Issue: Standard of review. Jurisdiction to suspend. Onus.

Result: The standard is correctness. The legislation in question contained ambiguities concerning the power to suspend. Contextual interpretation resolves the ambiguities such that the board has the power to suspend. Merely to direct which party goes first is not to make a decision on onus. A declaration will be granted that the board, not council, has the power to suspend, renew, or revoke the Merks' licence.

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