



T-2748-95

B E T W E E N:

The ALBERTA EGG PRODUCERS BOARD

and

GEORGE MacMILLAN,
and
GEORGE MacMILLAN operating
as MacMILLAN FARMS,

Plaintiffs

- AND -

HER MAJESTY THE QUEEN

and

The CANADIAN EGG MARKETING AGENCY

Defendants

REASONS FOR ORDER

CAMPBELL J.

Let the attached transcript of my Reasons for Order delivered orally from the bench at Calgary, Alberta, on August 19, 1997, now edited, be filed to comply with section 51 of the *Federal Court Act*.

Douglas R. Campbell

Judge

OTTAWA

September 30, 1997

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In this action the complaint that the plaintiffs have is against a federal government authority, and it is also the clear intention of the suit that the federal government authority be held responsible.

The action was commenced by suing the probable agent of the Crown, being the Council. I say "probable" because the end result of this point will still have to be determined at the trial. But it now being acknowledged that the suit should have been brought against the principal rather than the agent. I find that failure to do so is simply a technical deficiency.

I find that the application requesting that the probable agent be removed and the clear principal be replaced is a correction of this technical deficiency.

I acknowledge that the question of the limitation period is a prime one here, and the Crown has argued that it is unjust to allow the replacement in view of the passing of the limitation time. But I find it is just to allow this amendment in order that the action proceed, in order that the federal government authority's responsibility be determined.

Therefore, under Rule 424, I find it is just to grant leave to make an amendment under Rule 425. I find that under Rule 425, the application is to correct the name of a party, being the Council, by substituting the principal, being Her Majesty the Queen. As a result, I also grant the application to discontinue against the Council. I grant costs of this motion to the Council. It has already been agreed that costs for the previous motion be similarly awarded.

FEDERAL COURT OF CANADA
TRIAL DIVISION

NAMES OF SOLICITORS AND SOLICITORS ON THE RECORD

COURT FILE NO.: T-2748-95

STYLE OF CAUSE: ALBERTA EGG PRODUCERS BOARD ET AL v.
HER MAJESTY THE QUEEN ET AL

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: AUGUST 19, 1997

REASONS FOR ORDER OF THE HONOURABLE MR. JUSTICE CAMPBELL

DATED: SEPTEMBER 30, 1997

APPEARANCES:

MR. LORAN HALYN FOR PLAINTIFF

MR. GEOFFREY LESTER FOR THE QUEEN

MR. S. SMYTH FOR CEMA

SOLICITORS OF RECORD:

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