

Between:

PISCES MARINE LTD.,

Applicant,

- and -

HER MAJESTY THE QUEEN, as represented by the MINISTER
OF FISHERIES AND OCEANS, and the
GROUNDFISH MANAGER, PACIFIC REGION
OF THE DEPARTMENT OF FISHERIES AND OCEANS,

Respondents.

REASONS FOR ORDER

ROULEAU, J.

This matter was brought to my attention by the registry on October 7, 1997. The Applicant had not filed his motion record in accordance with the rules, within 30 days of filing his application for judicial review.

It would appear, initially, that the Respondent was agreeable to leave the matter in abeyance. This code of conduct was tacitly considered since some weeks after the filing of the initial application the Minister of Fisheries and Oceans put in place new regulations allowing for the creation of the Pacific Region Licence Appeal Board having the power to make recommendations directly to the Minister for decision.

As a result, the initial decision complained of and the subject of this judicial review, could now be brought before the newly constituted Appeal Board. This process is now being followed by the Applicant.

The Court convened counsel at Vancouver on October 8, 1997 and explained that no motion record had been filed and that in light of the creation of a new internal appeal procedure having been put in place, it was mandatory that the Applicant exhaust all remedies available before judicial review would be considered by the Court.

Following discussions with counsel, it was agreed that this application for judicial review should be dismissed: but, should it eventually be determined that the newly constituted Appeal Board recommendations or the Minister's decision prove to be unconstitutional or unimpeachable for any reason, the applicant should be at liberty to bring an application for extension of time to file for judicial review of the original decision affecting this applicant.

(Sgd.) "P. Rouleau"
JUDGE

October 8, 1997
Vancouver, British Columbia

NAMES OF COUNSEL AND SOLICITORS OF RECORD

STYLE OF CAUSE: PISCES MARINE LTD.

- and -

**HER MAJESTY THE QUEEN, AS
REPRESENTED BY THE MINISTER OF FISHERIES AND OCEANS,**

**AND THE GROUND FISH MANAGER, PACIFIC REGION OF THE
DEPARTMENT OF FISHERIES AND OCEANS**

COURT NO.: T-1077-97

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: October 8, 1997

**REASONS FOR ORDER OF ROULEAU, J.
dated October 8, 1997**

APPEARANCES:

Mr. J. Raymond Pollard for Applicant

Mr. Simon Fothergill for Respondent

SOLICITORS OF RECORD:

**Richard Buell Sutton
Vancouver, B.C.**

for Applicant

**George Thomson
Deputy Attorney General
of Canada**

for Respondent.