

**CASE NO.**

**VOL. NO.**

**PAGE**

**CRAIG J. MacNEIL**

- and -

**NOVA SCOTIA WORKERS' COMPENSATION  
APPEALS TRIBUNAL, the WORKERS'  
COMPENSATION BOARD OF NOVA SCOTIA and  
CAPE BRETON DEVELOPMENT CORPORATION**

(Appellant)

(Respondents)

CA164485

Halifax, N.S.

Flinn, JA

*Cite as: MacNeil v. Nova Scotia (Workers' Compensation Board), 2001 NSCA 3*

**APPEAL HEARD:**

December 8, 2000

**JUDGMENT DELIVERED:**

January 5, 2001

**SUBJECT:**

**Workers' Compensation - Appellate Review - Loss of Jurisdiction -  
Failure to Decide Issue Before the Tribunal**

**SUMMARY:**

The appellant was awarded Workers' Compensation benefits following a hearing before the hearing officer. DEVCO appealed to WCAT, claiming the appellant was not an employee of DEVCO at the relevant time; and, if so, his claim was out of time. Both the appellant and DEVCO made written submissions, firstly, to WCAT on the sole issue as to whether DEVCO was the employee for the purpose of the appellant's claim. At this point in the proceedings, neither party submitted any brief to WCAT on the timeliness of the appellant's claim. WCAT decided that the appellant's claim was out of time and statute barred.

**RESULT:**

Appeal allowed.

WCAT lost jurisdiction with respect to this matter. It not only failed to address the only question that was put to it by both parties, it rendered a decision on a different question, which had not been put to it by either party, without giving those parties an opportunity to make submissions and be heard on that question.

The decision and order of WCAT were set aside and the matter was remitted to a differently constituted WCAT.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 8 pages.**