

<b><u>CASE NO.</u></b>	<b><u>VOL. NO.</u></b>	<b><u>PAGE</u></b>
THE ATTORNEY GENERAL OF NOVA SCOTIA  (Appellant)	- and -	EMSCOTE LIMITED, a body corporate  (Respondent)
CA 163809	Halifax, N.S.	Flinn, J.A.

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[Cite as: Emscote v. Nova Scotia (Attorney General), 2001 NSCA 92]

**APPEAL HEARD:** January 16, 2001

**FINAL POST APPEAL  
SUBMISSIONS:** February 27, 2001

**JUDGMENT DELIVERED:** June 6, 2001

**SUBJECT:** **Assessment Act, R.S., c. 23 - s. 68(5) - time limit for service of  
Notice of Dissatisfaction with a Notice of Reassessment**

**SUMMARY:** Section 68(5) of the **Assessment Act** provides that where a party is dissatisfied with an amended Notice of Assessment, served under s. 68(4), he shall “serve” a Notice of Dissatisfaction “within seven days after service” of the amended Notice of Assessment.

Here, the respondent was served with the amended Notice of Assessment on Christmas Eve, December 24, 1999. On the same day, the respondent sent, by ordinary mail, a Notice of Dissatisfaction to the Regional Assessment Office. The Notice of Dissatisfaction was received at the Regional Assessment Office 11 days later on January 4, 2000. The Regional Assessment Office took the position that the Notice of Dissatisfaction was late, and it considered the respondent’s appeal was abandoned. On an application by the respondent to the Chambers judge, the Chambers judge decided that the Notice of Dissatisfaction was served within the time limits set out in s. 68(5); alternatively, that he would extend the time for service under the circumstances.

**RESULT:**

Appeal dismissed. For the purposes of s. 68(5) of the **Act** which does not specify a method of service, and where, as here, the respondent mailed the Notice of Dissatisfaction from its office in Halifax to the Regional Assessment Office in Dartmouth on the same day that the respondent was served with the amended Notice of Assessment; namely, December 24, 1999; and where, as here, the Regional Assessment Office actually received the respondent's Notice of Dissatisfaction 11 days later on January 4, 2000; and where, as here, but for the seven days between December 24, 1999 and January 4, 2000 when mail was not delivered, it is a reasonable inference that the respondent's Notice of Dissatisfaction would have been received by the Regional Assessment Office within seven days of its mailing, the court of appeal decided that the respondent's Notice of Dissatisfaction is deemed to have been received by the Regional Assessment Office within the time limit prescribed by s. 68(5) of the **Act**; and, therefore, served within the meaning of s. 68(5).

While it was not necessary to decide the issue, the court of appeal expressed reservations as to the jurisdiction of the Chambers judge to grant the respondent any extension of time for service of the Notice of Dissatisfaction.

**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.**