

CASE NO.

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**HAIFA SALLOUM, Workers’
Compensation Claimant
(Claim No. 1638605)**

**- and - The Nova Scotia Workers’ Compensation
Appeals tribunal and The Workers’
Compensation Board of Nova Scotia**

(Appellant)

(Respondents)

CA157021

Halifax, N.S.

Chipman, J.A.

[Cite as: *Salloum v. Nova Scotia (Workers’ Compensation Appeals Tribunal)*,
2000 NSCA 148]

APPEAL HEARD:

October 10, 2000

JUDGMENT DELIVERED:

December 28, 2000

SUBJECT:

**Workers’ Compensation - Government Employees Compensation Act,
R.S.C. 1985 c. G-5, Workers’ Compensation Act, 1994-95 c.10**

SUMMARY:

The appellant was an employee of the federal government who claimed to have suffered an environmental illness as a result of a chemical agent or physical condition in her workplace. She claimed that such environmental illness was a personal injury caused by accident arising out of and in the course of her employment. Consequently, she claimed to be entitled under Government Employees Compensation Act (GECA) to compensation at the same rate and under the same conditions as are provided under the law of the province respecting compensation for workers as provided in s. 4(2) of GECA. The Workers’ Compensation Appeal Tribunal held that she had not established on a balance of probabilities the presence of a chemical agent or physical condition in her workplace linked to the environmental illness from which she claimed to suffer. The appellant appealed to the Nova Scotia Court of Appeal pursuant to s.256(1) of the **Workers’ Compensation Act (WCA)**.

ISSUES:

- (1) Whether an appeal lay to the Nova Scotia Court of Appeal under s.256(1) of WCA for federal government employees making claims pursuant to GECA;
- (2) If the answer to the first question is in the affirmative, whether, in making a claim under GECA, the appellant was entitled to rely on s.187 of WCA providing for a standard of proof lower than the civil standard of proof on a balance of probabilities.

RESULT:

(1) The Court of Appeal held that s. 256(1) of WCA was not available to a federal government employee making a claim under GECA. Provisions in WCA for an appeal to the courts are not “compensation at the same rate and under the same conditions” as are given to the employee by s. 4(2) of GECA. An employee dissatisfied with the decision of the “board, officers or authority”, to which jurisdiction to determine their compensation is given by s. 4(3) of GECA, must look to GECA for the avenue of relief to the courts from a decision of such a tribunal, and not to the Act constituting the tribunal (WCA). GECA is silent with respect to judicial review and the obvious avenue is by way of an application to the Supreme Court for judicial review.

(2) In view of the conclusion that the court had no jurisdiction to entertain the appeal, it was neither necessary nor desirable to address the second issue.

The appeal was dismissed.

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 41 pages.