

**CASE NO.****VOL. NO.****PAGE**

HALIFAX PORT AUTHORITY

HALTERM LIMITED

- and -

(Appellant)

(Respondent)

CA 161652

Halifax, N.S.

CROMWELL, J.A.  
(Orally)

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**[Cite as: Halifax Port Authority v. Halterm Ltd., 2000 NSCA 70]****APPEAL HEARD:**

May 25, 2000

**JUDGMENT DELIVERED:**

May 25, 2000

**WRITTEN RELEASE OF ORAL:**

May 26, 2000

**SUBJECT:****Conflict of Laws - Actions - Stay of Proceedings where action pending in another jurisdiction (*lis alibi pendens*)****SUMMARY:**

The Port Authority commenced an action in the Supreme Court of Nova Scotia in which it sought a declaration that Halterm has no legal right to renew its current leases for premises in the commercial Port of Halifax. Halterm commenced proceedings in the Federal Court seeking judicial review and instituted proceedings before the Canadian Transportation Agency alleging discrimination by the Authority in setting lease rates. The Port Authority challenged the jurisdiction of the Federal Court on the grounds that the Port Authority is not a federal board, commission or tribunal when negotiating leases and that it has made no decision within the meaning of the **Federal Court Act**, R.S.C. 1985, c. F-7, as amended. The preliminary application challenging the Federal Court's jurisdiction had been argued but no decision had been rendered.

Halterm applied in chambers to stay the Nova Scotia proceedings and the Chambers judge granted the order. The Port Authority sought leave to appeal.

**ISSUE:**

Did the chambers judge err in principle in granting the stay?

**RESULT:**

Appeal allowed. The chambers judge erred in principle in staying the Nova Scotia proceedings. The right to commence and pursue proceedings in the courts is an important one and should be limited

only for clear and important reasons. At this early stage, there is uncertainty as to the scope of the proceedings in the Federal Court and the Nova Scotia court and, in the case of the Federal Court, of the Court's jurisdiction. In these circumstances, substantial reasons for staying the Nova Scotia proceedings had not been made out and it was premature to grant the stay.

**This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 5 pages.**