

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
ATLANTIC PIPELINE RESOURCES INCORPORATED	- and -	GARY WIDMEYER
Appellant		Respondent
ATLANTIC PIPELINE RESOURCES INCORPORATED	- and -	ROY NORTH ENTERPRISES LIMITED and ROY NORTH
Appellant		Respondents
C.A. No. 158237 & C.A. No. 158236	Halifax	ROSCOE, J.A.
[Cite as: Atlantic Pipeline Resources Inc. v. Widmeyer, 2000 NSCA 22]		

APPEAL HEARD: February 1, 2000

JUDGMENT DELIVERED: February 1, 2000

WRITTEN RELEASE OF ORAL: February 3, 2000

SUBJECT: Practice - Applications to Default Judgment
Rule 12.01, Liquidated Damages

SUMMARY: The appellant made applications to set aside default judgments which were dismissed by the Chambers judge on the basis that it had not been shown that there was a reasonable excuse for the failure to file a defence. (**Ives v. Dewar**, [1949] 2 D.L.R. 204 (N.S.C.A.))

ISSUE: Whether the Chambers judge erred in not setting the matter over for an assessment of damages because there were arguable issues raised and the claims were not for liquidated damages.

RESULT: Appeal allowed. Claims were not for liquidated damages. Prothonotary did not have jurisdiction to enter default judgments for unliquidated claims. Since this issue had not been raised before the Chambers judge, appellant ordered to pay respondents costs on appeal and respondents entitled to retain funds pending the assessment of damages.

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