

NOVA SCOTIA COURT OF APPEAL
Cite as: Higgins v. Saunders, 1998 NSCA 197

Chipman, Hallett and Flinn, JJ.A.

BETWEEN:

STEPHEN HIGGINS

Appellant

- and -

DOUGLAS SAUNDERS

Respondent

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) W. Michael Cooke, Q.C.
) for the Appellant
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) A. Jean McKenna
) for the Respondent
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) Appeal Heard:
) November 24, 1998
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) Judgment Delivered:
) November 24, 1998
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THE COURT:

The appeal is dismissed with costs as per oral reasons for judgment of Chipman, J.A.; Hallett and Flinn, JJ.A., concurring.

The reasons for judgment of the Court were delivered orally by:

CHIPMAN, J.A.:

This is an appeal from a decision of Associate Chief Justice Kennedy (as he then was) in Supreme Court dismissing an appeal by the appellant from a decision of an adjudicator in Small Claims Court.

Under s. 32(1) of the **Small Claims Court Act**, an appeal from an adjudicator's decision to the Supreme Court is limited to: (a) jurisdictional error; (b) error of law; or (c) failure to follow the requirements of natural justice.

Section 32(4) of the **Act** provides:

32 (4) Upon receipt of a copy of the notice of appeal, the adjudicator shall, within thirty days, transmit to the prothonotary a summary report of the findings of law and fact made in the case on appeal, including the basis of any findings raised in the notice of appeal and any interpretation of documents made by the adjudicator, and a copy of any written reasons for decision.

Following the delivery of a copy of the appellant's notice of appeal, the adjudicator simply provided a copy of his seven page decision in which he reviewed the nature of the dispute between the parties, made findings of fact and reached conclusions, making reference to appropriate legal authorities.

In his decision dismissing the appeal, Associate Chief Justice Kennedy observed at the outset that while the summary report finding of the adjudicator was not in the form commonly used, the decision was detailed and extensive and he was satisfied that the process used by the adjudicator in this matter satisfied the statutory requirements.

Associate Chief Justice Kennedy then dismissed the appellant's contentions

that the adjudicator had erred in law and that there had been a failure of natural justice.

He concluded that:

It appears to have been a case well-heard.

The focus of the appeal to this Court is the finding by Associate Chief Justice Kennedy that the adjudicator complied with the provisions of s. 32(4) of the **Act** by simply supplying a copy of his decision. We are of the opinion that in the circumstances of this case the adjudicator did comply with the **Act**. The decision clearly reveals the findings of law and fact so as to have enabled the Supreme Court to reach a conclusion whether or not any of the grounds for appeal listed in s. 32(1) of the **Act** existed. Appellant's counsel conceded that the adjudicator's decision addressed all of the issues raised in the notice of appeal to the Supreme Court.

The appeal is dismissed with costs which we fix at \$300.00 inclusive of disbursements.

Chipman, J.A.

Concurred in:

Hallett, J.A.

Flinn, J.A.