

NOVA SCOTIA COURT OF APPEAL

Citation: *Jacques Home Town Dry Cleaners v. Nova Scotia (Attorney General)*,
2013 NSCA 4

Date: 20130103
Docket: CA 387839
Registry: Halifax

Between:

Jacques Home Town Dry Cleaners

Appellant

v.

The Attorney General of Nova Scotia, representing
Her Majesty the Queen in right of the Province of Nova Scotia

Respondent

Judge: The Honourable Mr. Justice Jamie W.S. Saunders

Appeal Heard: October 11, 2012

Subject: **Claim for Overhead. Drawing Inferences from Established Facts. Sufficiency of Proof. Standard of Review.**

Summary: A motor vehicle insurer refused to pay a 10% administration fee levied by the Nova Scotia Department of Transportation and Infrastructure Renewal for overhead expenses related to remediation of third-party damage to government owned property. The Chambers judge allowed the claim, finding that it was reasonable, not arbitrary or artificial, and did not include any mark-up for potential profit. The insurer appealed.

Held:

Appeal dismissed, but with a strong caution that the result was driven by the relatively insignificant amount of the claim. Were the amount of third party damages more substantial, the outcome may well have been different.

The Court went on to explain the difference between an inference and a hunch, and the importance of properly drawn inferences in the context of judicial decision-making. Illustrations were provided.

After accepting as a fact that extra administrative tasks were actually undertaken to process the claim as a direct result of the appellant's negligence, and that the cost of the extra work was quantifiable and bore a logical correlation to the initial cost of repairs, the motions judge did not need further evidence to establish those essential links.

In view of the small amount of the claim, this was not a situation which called for further evidence to satisfy the trier of fact as to why the province chose 10% as being a fair and appropriate percentage to charge and include as part of its overall damage claim. However, were the quantification of the claim substantially larger, the likelihood of successfully raising such a proper inference would – absent further proof – be significantly diminished. The factual findings and inferences drawn by the motions judge fell within a range of reasonableness and ought not to be disturbed. However, the appellant had good reason to challenge the claim and seek this Court's consideration of the matter. Therefore, the Court declined to order costs.

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 14 pages.