

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Cape Breton Firefighters Association, IAFF Local 2779 v. Cape Breton (Regional Municipality), 2017 NSCA 92*

**Date:** 20171215

**Docket:** CA 459691

**Registry:** Halifax

**Between:**

Cape Breton Firefighters Association,  
IAFF Local 2779

Appellant

v.

Cape Breton Regional Municipality and  
The Arbitration Board comprised of Susan M. Ashley,  
Tony Mozvik, and Larry Cook

Respondent

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**Judge:** The Honourable Justice David P.S. Farrar

**Appeal Heard:** October 17, 2017, in Halifax, Nova Scotia

**Subject:** **Labour Law. Breach of a Collective Agreement.**

**Summary:** The Cape Breton Regional Municipality closed a fire station and reduced the number of firefighters assigned to each shift in the Municipality by two. The Cape Breton Firefighters Association (the Union) grieved the reduction on the basis that the Municipality failed to respect a requirement to retain an overall minimum staffing level. An arbitration board allowed the grievance and found that the Municipality had failed to maintain the minimum staffing level.

After the decision of the Arbitration Board, the Municipality continued to staff the fire stations at the reduced level. The Union grieved again. The grievance was dismissed by a second arbitration board finding that the Union was

attempting to relitigate the original grievance and seek a remedy which it had not previously sought.

The Union sought judicial review. The judicial review was dismissed.

The Union appeals.

**Issues:** Did the application judge err in concluding that the arbitration board decision dismissing the grievance was reasonable?

**Result:** Appeal allowed with costs to the Union in the amount of \$3,000. Both the application judge and arbitration board misunderstood the nature of the grievance. The Union was seeking a finding that there was a continuing breach of the collective agreement and sought a remedy, a compliance order, for that continuing breach. Both the application judge and the arbitration board saw it as an attempt by the Union to relitigate an issue which had already been resolved.

This mischaracterization caused the Arbitration Board to render an unreasonable decision. The matter was remitted to a newly constituted Labour Arbitration Board for rehearing.

*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 15 pages.*