

NOVA SCOTIA COURT OF APPEAL

Citation: *Disability Rights Coalition v. Nova Scotia (Attorney General)*,
2021 NSCA 83

Date: 20211214
Docket: CA 486952
Registry: Halifax

Between:

Disability Rights Coalition and Beth MacLean, Olga Cain on behalf of Sheila
Livingstone, Tammy Delaney, on behalf of Joseph Delaney

Appellants

v.

The Attorney General of Nova Scotia representing Her Majesty the Queen in right
of the Province of Nova Scotia (including the Minister of Community Services and
the Minister of Health and Wellness), Nova Scotia Human Rights Commission, J.
Walter Thompson, Q.C., sitting as a Board of Inquiry

Respondents

and

Inclusion Canada, the Council of Canadians with Disabilities, and People First of
Canada

Intervenors

Judges: The Court (Wood C.J.N.S., Farrar and Bourgeois JJ.A.)

Appeal Heard: November 18 and 19, 2020, in Halifax, Nova Scotia
Supplementary Submissions Received November 5, 2021

Held: Decision of October 6, 2021 affirmed (reported 2021 NSCA 70)

Counsel: Claire McNeil and Patrick Cameron, for Disability Rights
Coalition
Vincent Calderhead and Katrin MacPhee, for Beth MacLean, Olga
Cain, and Tammy Delaney
Kevin Kindred and Dorianne Mullin, for the Attorney General of
Nova Scotia
Kendrick Douglas, for the Nova Scotia Human Rights Commission
(watching brief)
J. Walter Thompson, Q.C., respondent (not participating)
Byron Williams, Joëlle Pastora Sala, and Miranda D. Grayson, for
the intervenors

Supplementary Decision

[1] On October 6, 2021, this Court issued a decision which increased the amount of damages awarded to Beth MacLean to \$300,000 subject to further determination of the Court.¹

[2] Sadly, Ms. MacLean died just two weeks before this Court released its decision.

[3] Counsel were requested to provide supplementary submissions regarding the impact of Ms. MacLean's death, if any, on the payment of the award.

[4] On November 5, 2021, submissions were received from the Estate of Beth MacLean and the Attorney General of Nova Scotia representing Her Majesty the Queen in right of the Province of Nova Scotia (the Province).

[5] In its supplementary submissions, the Province recognized that the award to Ms. MacLean arose from its failure to provide adequate residential supports and the harm she suffered as a result. It indicated that regardless of how this Court ruled on the issue raised, it was going to pay the award. In its brief the Province stated:

The Province recognizes that the award of damages to Ms. MacLean arises from its own failure to provide adequate residential supports allowing Ms. MacLean to live in community, and the harms that she suffered as a result. The Province wishes to respect the spirit of that award and ensure that an appropriate payment is made, regardless of how this Court rules on the discrete question raised here. Thus, if this Court should rule that damages are not payable in the circumstances as a matter of law, the Province will voluntarily make a payment in an amount consistent with the Court's finding on damages [...]

[6] In light of the position taken by the Province, it is not necessary for this Court to rule on the issue of whether Ms. MacLean's death has any impact on the payment of the award. As a result, we find the amount awarded to Beth MacLean shall be payable to her Estate.

Wood, C.J.N.S.

Farrar, J.A.

¹ *Disability Rights Coalition v. Nova Scotia (Attorney General)*, 2021 NSCA 70 at FN 33.

Bourgeois, J.A.