

CASE NO.

VOLUME

PAGE

Cite as: Nova Scotia (Workers' Compensation Board) v. Walsh, 1998 NSCA 136

WORKERS' COMPENSATION
BOARD OF NOVA SCOTIA

WORKERS' COMPENSATION
APPEALS TRIBUNAL OF NOVA
SCOTIA and LARRY WALSH

- and -

(Appellant)

(Respondents)

C.A. No. 145401

Halifax, N.S.

CROMWELL, J.A.
(orally)

APPEAL HEARD:

June 16, 1998

JUDGMENT DELIVERED:

June 16, 1998

WRITTEN RELEASE OF ORAL:

June 18, 1998

SUBJECT:

Workers' Compensation Act - Burden of Proof - Jurisdiction of WCAT to award medical aid

SUMMARY:

WCAT allowed an appeal from a Hearing Officer and increased the appellant's permanent impairment rating for work-related hearing loss and directed the Board to pay for prescribed hearing aids. The Board appealed arguing that the Tribunal had misapplied the burden of proof to the facts and that it lacked jurisdiction to order medical aid as that is within the sole discretion of the Board.

ISSUE:

Did the Tribunal commit jurisdictional error?

RESULT:

The appeal was dismissed. The Court, assuming without deciding that the application of the burden of proof could constitute jurisdictional error, found that there was evidence before the Tribunal which supported its conclusion. It, therefore, made no jurisdictional error in reaching that conclusion. The medical aid issue was largely governed by the decision of the Court in **Workers' Compensation Board of Nova Scotia v. Workers' Compensation Appeals Tribunal & Brenda MacLeod** (May 21, 1998).

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S
DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER
SHEET. THE FULL COURT DECISION CONSISTS OF 3 PAGES.**