

CASE NO.

VOL. NO.

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Cite as: **Way v. Covert, 1997 NSCA 99**

**JEAN WAY**

- and -

**ROBERT COVERT, DOROTHY  
HENDERSON, and JOANNE KING, in  
their capacity as a Social Assistance  
Appeal Board, and BILL CAMPBELL,  
in his capacity as Director of Family  
Benefits**

(Appellant)

(Respondents)

C.A. No. **132095**

Halifax, N.S.

**Pugsley, J.A.  
Flinn, J.A.  
(concurring by separate reasons)**

**APPEAL HEARD:**

January 24, 1997

**JUDGMENT DELIVERED:**

May 13, 1997

**SUBJECT: Statutory Interpretation**

**SUMMARY:** The **Family Benefits Act**, R.S.N.S., 1989, c.158, gives broad regulatory power to the Governor in Council. In 1994 the Governor in Council passed regulations restricting persons in need, who qualified under the **Act**, from receiving shelter benefits, if the income of a relative with whom the person in need resided, exceeded a certain amount. The Director of Family Benefits dismissed an appeal brought by the appellant who alleged the elimination of her shelter allowance was not authorized under the **Act**. The Director's decision was upheld by the Social Assistance Appeal Board. The Chambers judge dismissed the appellant's application for an order in the nature of a *certiorari*. The appellant appealed.

**RESULT:** The Court of Appeal allowed the appeal. Flinn, J.A., with whom Hart, J.A. concurred, concluded that the **1994 Regulations** imposed a standard of eligibility for benefits inconsistent with the standards set out in the **Act**. Pugsley, J.A., concluded that the **Act** did not

expressly authorize, or create by necessary implication, the right to discriminate between family benefit recipients who live with relatives and those who did not, and hence the **1994 Regulations** were not authorized.

**This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 25 pages.**