

NOVA SCOTIA COURT OF APPEAL

Citation: *Nova Scotia Union of Public & Private Employees, Local 13 v. Halifax (Regional Municipality)*, 2007 NSCA 17

Date: 20070207

Docket: CA 270343

Registry: Halifax

Between:

Nova Scotia Union of Public & Private Employees,
Local 13

Appellant

v.

Halifax Regional Municipality

Respondent

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: January 24, 2007

Subject: **Judicial Review - grievance arbitration**

Summary: The appellant, an employee of Halifax Regional Municipality (“HRM”), went on Long Term Disability (“LTD”) and then accepted a lump sum payment ending any further claim to monthly LTD payments. HRM, as it advised that it would before she accepted the lump sum, took this as recognition that she would not be returning to work and terminated her employment. The Pension Plan provides that persons who are receiving LTD or CPP Disability pension are exempted from making contributions to the Plan during the period of disability, and further, that this period is included as credited service. The appellant grieved her discharge solely on the basis that she had the right to continue to accumulate credited service under the Pension Plan. An arbitrator found that HRM was entitled to terminate the appellant’s employment and a chambers judge dismissed an application to quash the award. The appellant appealed.

- Issue:**
1. What is the standard of review?
 2. Did the arbitrator make a reviewable error in dismissing the grievance?
 3. Did comments by the chambers judge during the course of submissions give rise to a reasonable apprehension of bias?

Result: Appeal dismissed.

Assuming without deciding that, as the appellant submitted, the applicable standard of review is reasonableness, the award did not disclose a reviewable error. The award was supported by a line of reasoning, anchored in the collective agreement and the pension plan text which it was the arbitrator's role to interpret and apply. The judge was right not to quash the award. The comments by the chambers judge assessed in context and from the perspective of a reasonable person fully informed of the relevant circumstances would not reasonably give rise to any concern about the judge's impartiality.

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 9 pages.