

CASE NO. **VOLUME** **PAGE**
 Cite as: Zanzibar's Unisex Hairstyling Ltd. V. Bourque, 1997 NSCA 114

ZANZIBAR'S UNISEX
 HAIRSTYLING LIMITED

SHIRLEY A. BOURQUE and
 THE LABOUR STANDARDS
 TRIBUNAL and THE DIRECTOR
 OF LABOUR STANDARDS

- and -

(Appellant)

(Respondents)

C.A. No. 136304

Halifax, N.S.

FLINN, J.A.

APPEAL HEARD: June 2, 1997

JUDGMENT DELIVERED: June 17, 1997

SUBJECT: **Administrative law - appeal from decision of Labour Standards Tribunal - whether failure of investigator to endeavour to effect settlement renders Director's order *void ab initio* - standard of review of Tribunal's decision.**

SUMMARY: Employee of 14 years standing complained to the Labour Standards Board that her employer contravened s. 72 of the **Code** by firing her without notice or pay in lieu of notice. Employer's position was that the employee quit. The Director of Labour Standards found a contravention of s. 72 of the **Code** and ordered the employer to pay to the employee eight weeks' pay. On appeal by the employer to the Labour Standards Tribunal, the Tribunal made a similar finding of contravention of s. 72 of the **Code** and confirmed the Director's Order.

ISSUES:

- (1) Was the Director's order *void ab initio* because the investigator failed to "endeavour to effect a settlement" within the meaning of s. 21 of the **Code**?
- (2) Whether the Tribunal erred in concluding there was a violation of s. 72 of the **Code**.

RESULT: Appeal dismissed.

- (1) Following a review of the evidence, the Court decided that under the circumstances of this case the Tribunal was correct to conclude that the investigator satisfied the requirements of s. 21(1) of the **Code** with respect to endeavouring to effect the settlement.
- (2) The Tribunal's findings, that the employer breached s. 72 of the **Code**, are essentially factual findings. There was evidence to support those findings and the findings are not patently unreasonable.

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 11 PAGES.