

<b><u>CASE NO.</u></b>	<b><u>VOL. NO.</u></b>	<b><u>PAGE</u></b>
JAMES MACDONALD (Appellant)	- and -	CALVIN DEMONT (Respondent)
CA 165682	Halifax, N.S.	Freeman, J.A.

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[Cite as: MacDonald v. Demont, 2001 NSCA 61]

**APPEAL HEARD:** March 26, 2001

**JUDGMENT DELIVERED:** April 10, 2001

**SUBJECT:** Residential Tenancies Act, R.S.N.S. 1989, c. 401 as amended;  
Director of Residential Tenancies Board; Appeals; Reasons.

**SUMMARY:** The appellant tenant complained that the respondent landlord threw out most of his belongings while he was in hospital. The Residential Tenancies officer representing the Director of Residential Tenancies found the tenant had exceeded the one year limitation period and that the evidence was insufficient to substantiate his claim. His notice of appeal promised new evidence. The Board held that no new evidence was presented and upheld the Director's order. On appeal to the Supreme Court of Nova Scotia the Board's decision was interpreted to mean there was nothing in the evidence at the second hearing to justify any variation or rescission of the initial decision. The tenant appealed to this court on grounds that the Board did not have jurisdiction to uphold the Director's order without a trial *de novo* because of issues of procedural fairness arising from the Director's powers to investigate and mediate.

**ISSUE:** Did the Board lose jurisdiction for not giving sufficient reasons.

**RESULT:** The appeal was dismissed without costs. While sufficient reasons should be stated by the Board to establish that a trial *de novo* has been held and an independent adjudication made on the evidence,

the Supreme Court reasonably concluded that the minimal findings by the Board established an insufficiency of evidence at the second hearing.

**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 8 pages.**