

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
MARK DAVIDSON and PETER SCOTT GRIFFITHS	- and -	MICHELIN NORTH AMERICA (CANADA) INC.
(Appellants)		(Respondent)
CA 171023	Halifax, N.S.	CROMWELL, J.A. (Orally)

[Cite as: **Davidson v. Michelin North America (Canada) Inc., 2001 NSCA 181**]

APPEAL HEARD: December 7, 2001

JUDGMENT DELIVERED: December 7, 2001

WRITTEN RELEASE OF ORAL: December 7, 2001

SUBJECT: **Labour Standards Code**, R.S.N.S. 1989, c. 246 - pay for general holidays - normal hours of work

SUMMARY: The appellants were complainants before the Labour Standards Tribunal. The Tribunal dismissed their complaints that the respondent had breached s. 40(2) of the **Labour Standards Code** by paying them for 8 hours instead of 12 hours for Good Friday and Canada Day in the year 2000. The Tribunal reviewed the history of the respondent's method of scheduling both generally and in relation to statutory and other holidays. The Tribunal concluded that the scheduling practices did not contravene s. 40(2) of the **Code**.

ISSUES: Did the Tribunal err in law or jurisdiction?

RESULT: Appeal dismissed. The terms "normal hours of work" and "regular rate of wages" in s. 40(2) of the **Code** must be interpreted in the particular employment context and in light of a number of factors including the scheduling practices of the employer. These terms must be applied to the particular facts of each case having regard to the purposes of the statutory protection of holiday pay set out in s. 40(2) of the **Code**. This is precisely the approach taken by the Tribunal in this case and in doing so it did not err.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 2 pages.
