

**CASE NO.****VOL. NO.****PAGE**

TREVOR MILLS

- and -

SOBEYS INCORPORATED

(Appellant)

(Respondent)

CA159567

Halifax, N.S.

Flinn, J.A.

**[Cite as: Sobeys v. Mills, 2000 NSCA 91]****APPEAL HEARD:**

May 24, 2000

**JUDGMENT DELIVERED:**

August 4, 2000

**SUBJECT:****Employment Law - Appellate review of decision of the Nova Scotia Labour Standards Tribunal.****SUMMARY:**

The appellant appeals the decision of the Labour Standards Tribunal which dismissed the appellant's appeal from the Director. The appellant filed a complaint, containing several counts, against his employer and arising out of the termination of the appellant's employment.

**RESULT:**

Appeal dismissed.

1. The finding of the Tribunal that the appellant quit his job (as opposed to having been discharged, suspended or laid off by his employer) is a finding entirely within the jurisdiction of the Tribunal. The Tribunal made no error of law in considering this issue, and its factual determinations are not patently unreasonable.
2. There was no constructive dismissal of the appellant, even if it could be said that the employer did not adequately respond to disparaging remarks written about the appellant on a wall at the place of employment (by some unknown person). The employer's failure would not have been so fundamental to the employment relationship so as to demonstrate an intention no longer to be bound by the employment contract. Further, the appellant had options to report to, and consult with, senior administration of the employer which he failed to do.
3. There was no merit to the appellant's complaints under s. 32 of the

**Labour Standards Code** (vacation) or under s. 57 of the **Code** (differential in pay).

4. The appellant claimed also that he was denied natural justice by the Tribunal in various respects. With respect to two matters (the others having no merit) the Court of Appeal decided that the Tribunal erred in law in refusing to allow the appellant to conduct re-examination of himself as a witness, and in refusing to permit the appellant to introduce certain statements into evidence. The Court of Appeal decided, however, that these errors had no affect whatsoever on the outcome of the hearing before the Tribunal; and, as a result, it was not an appropriate case to order a rehearing.

**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 18 pages.**