

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

EDMOND MacDONALD

- and -

NOVA SCOTIA (WORKERS'
COMPENSATION APPEALS
TRIBUNAL) and NOVA SCOTIA
(WORKERS' COMPENSATION
BOARD)

(Appellant)

(Respondents)

CA161839

Halifax, N.S.

Freeman, J.A.

[Cite as: MacDonald v. Nova Scotia (Workers' Compensation Board), 2000 NSCA 131]

APPEAL HEARD:

November 15, 2000

JUDGMENT DELIVERED:

November 15, 2000

WRITTEN RELEASE OF ORAL:

November 17, 2000

SUBJECT: **Workers' Compensation Act, S.N.S. 1994-5, c. 10, ss. 42, 43 and 229**

SUMMARY: After four years of minimal income a worker engaged as a millwright was injured one week into a a two-week contract that paid him \$3,286.72 a week. Under the former **Act** he received the maximum Workers Compensation benefit of \$538.08 a week based on his income at that time. Section 229 of the new **Act, Workers' Compensation Act**, S.N.S. 1994-5, c. 10, ss. 42, 43 and 229 required that his benefit be recalculated. This resulted in a reduction in his weekly benefits to \$86.33. beginning August 1, 1996, which was paid until April 29, 1997, when he returned to work. This was confirmed by the Workers' Compensation Appeals Tribunal. He has appealed further to this court.

ISSUE: Did the Hearing Officer and the Appeals Tribunal apply ss. 42 and 43 of the new **Act** unreasonably to determine the worker's earnings in a way that best represents the actual loss of earnings suffered?

RESULT: The appeal was dismissed. The calculation of the temporary earnings replacement benefit was a matter of fact, over which the Nova Scotia Court of Appeal has no jurisdiction.

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 2 pages.