

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Connolly v. Nova Scotia (Workers' Compensation Board)*,  
2006 NSCA 3

**Date:** 20060109  
**Docket:** CA 192928  
**Registry:** Halifax

**Between:**

Canada Post Corporation

Appellant

v.

Nova Scotia Workers' Compensation Appeal  
Tribunal and The Workers' Compensation Board  
of Nova Scotia and John E. Connolly

Respondents

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**Judge:** The Honourable Justice Thomas Cromwell

**Appeal Heard:** September 28, 2005

**Subject:** Workers Compensation – s. 10E chronic pain benefit

**Summary:** WCAT found the worker, whose claim was governed by **Government Employees Compensation Act**, R.S.C. 1985, c. G-5 (“**GECA**”), to be entitled to a benefit under s. 10E of the **Workers' Compensation Act**, S.N.S. 1994-95, c. 10, as am. (“**WCA**”). It determined that, as required by the section, he had a claim under appeal at a specified date because his employer had an appeal in relation to the worker pending at that time. The employer was granted leave to appeal.

- Issues:**
1. Does s. 10E apply to **GECA** claims?
  2. If so, does s. 10F also apply?
  3. If s. 10 F applies, does it bar the appeal?
  4. What are the appropriate standards of review?
  5. Did WCAT make a reviewable error when it found that the worker had a claim under appeal as of November 25, 1998?
  6. Is the appeal in relation to chronic pain?

**Result:** Appeal allowed in part. Subsections 10E and 10F apply to **GECA** claims. The latter subsection does not bar the appeal. WCAT's decision that the worker had a claim under appeal within the meaning of s. 10E should be reviewed on the standard of patent unreasonableness. Its decision that he did was not patently unreasonable. The question of whether the appeal was in relation to chronic pain was not decided by the Board or by WCAT and that question should be remitted to the Board for decision.

**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 25 pages.**