

NOVA SCOTIA COURT OF APPEAL
Citation: *Adams v. Cusack*, 2006 NSCA 9

Date: 20060125
Docket: CA 250804
Registry: Halifax

Between:

Harvey Adams

Appellant

v.

Mark Cusack, Jack Gallagher,
Larry Wilson, Neil Bellefontaine
and Attorney General of Canada

Respondents

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: November 29, 2005

Subject: **Labour relations – public service – courts – jurisdiction**

Summary: The appellant was a public servant but not part of a bargaining unit. He sued the Crown and several managers alleging that they had conspired to obtain his constructive dismissal. The respondents successfully applied to dismiss his action on the basis that the court should not entertain it in view of the comprehensive statutory employment dispute resolution processes available to him outside of the court. The appellant appealed.

Issues:

1. Was deference to the statutory employment dispute resolution mechanisms appropriate where they were not the result of collective bargaining?

2. If so, should the court exercise its residual discretion to hear the action?

Result: Appeal dismissed. The principle of deference applied to comprehensive statutory employment dispute resolution schemes such as those available to the appellant even though he was not within the bargaining unit. The processes available to the appellant provided effective redress for his complaints and the chambers judge did not err in refusing to exercise the residual discretion to allow the action to proceed.

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 23 pages.