

NOVA SCOTIA COURT OF APPEAL

Citation: Nova Scotia (Department of Justice) v. Nova Scotia Government
and General Employees Union, 2005 NSCA 88

Date: 20050530

Docket: CA 235410

Registry: Halifax

Between:

The Nova Scotia Department of Justice representing
Her Majesty the Queen in Right of the Province of Nova Scotia

Appellant

v.

Nova Scotia Government and General Employees Union

Respondent

Judge: The Honourable Justice Cromwell

Appeal Heard: May 30, 2005

Written Judgment: May 31, 2005

Subject: Labour relations - judicial review - adjudicator's substitution
of penalty

Summary: A correctional officer was dismissed because he knowingly permitted his spouse to cultivate marijuana for her personal medical use in their home and he had admitted to smoking marijuana. The adjudicator, acting under the statutory discretion conferred on him to substitute for the discharge any penalty that to him seemed just and reasonable, set aside the discharge and imposed instead a one-year suspension without pay or benefits. The employer unsuccessfully applied to set aside the award and then appealed to the Court of Appeal.

Issue: Did the judge err in finding that the adjudicator had made no reviewable error?

Result: Appeal dismissed. Whether reviewed on the basis of reasonableness or patent unreasonableness, the adjudicator made no reviewable error.

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 5 pages.