

NOVA SCOTIA COURT OF APPEAL

Citation: Workers' Compensation Board of Nova Scotia v. Kaye, 2009 NSCA
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Date: 20091204
Docket: CA 309638
Registry: Halifax

Between:

The Workers' Compensation Board of Nova Scotia

Appellant

v.

Workers' Compensation Appeals Tribunal, Attorney
General of Nova Scotia and Martin Kaye

Respondents

Judge: The Honourable Justice Oland

Appeal Heard: November 25, 2009

Subject: *Workers' Compensation Act*, s. 228 - Chronic Pain Regulations, s. 9

Summary: The Workers' Compensation Board appealed the effective date of the chronic pain benefits awarded to a worker. That date has been found on the evidence to be earlier than November 26, 1992 which is set out in s. 228, one of the *Act's* transitional provisions which deals with injuries between March 23, 1990 and February 1, 1996 (the "window period").

Issue: Does s. 228 of the *Act* limit the retroactive payment of chronic pain benefits stemming from injury within the window period?

Result: Appeal dismissed. Section 228 has no application to payment of chronic pain benefits for injuries during the window period. Nor is entitlement under s. 9 of the Regulations restricted to an effective date of November 26, 1992.

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.