

NOVA SCOTIA COURT OF APPEAL

Citation: *Curves for Women New Glasgow Ltd. v. Nova Scotia (Finance)*, 2007 NSCA 105

Date: 20071107

Docket: CA 274846

Registry: Halifax

Between:

Curves for Women New Glasgow Limited

Appellant

v.

Nova Scotia (Minister of Finance)

Respondent

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: September 17, 2007

Subject: **Nova Scotia Income Tax Act, Application for an Extension of Time to File a Notice of Appeal**

Summary: The appellant applied on the form provided by the Nova Scotia Department of Finance for a tax holiday. It was informed verbally and in writing by a staff member at the Department that it was ineligible. It later wrote several letters to different staff members with the Department arguing that it was eligible and received several letters in return confirming it was not. None of the letters from the Department were signed by the Minister. The final letter from a staff member at the Department dated June 16, 2005 did not formally state that it was the Minister's confirmation that the appellant did not qualify for the tax holiday. The appellant filed its notice of appeal more than 90 days after June 16, 90 days being the appeal period provided for in the legislation. The appellant did not make an application for an extension of time to file its notice of appeal until it did so orally part way through the hearing, despite having been alerted to this jurisdictional issue at least 4 months earlier. It provided no evidence in support of its application.

Issue: Did the judge err in determining that the appellant's notice of appeal was filed late or in refusing to extend its time to file its notice of appeal?

Result: Appeal dismissed. The judge did not err in concluding that the June 16 letter was the Minister's confirmation that started the 90 day appeal period running so that the appellant's notice of appeal was filed late. Nor did he err in exercising his discretion not to grant an extension.

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 13 pages.