CASE NO. **PAGE** VOL. NO.

Cite as: Fraser v. Nova Scotia (Workers' Compensation Appeals Tribunal), 1998 NSCA 30

ALBERT FRASER THE WORKERS' COMPENSATION APPEALS - and -

> TRIBUNAL OF NOVA SCOTIA and THE WORKERS' COMPENSATION BOARD OF

NOVA SCOTIA

Respondents Appellant

C.A. No. 137402 Halifax CHIPMAN, J.A.

February 6, 1998 APPEAL HEARD:

JUDGMENT DELIVERED: February 6, 1998

WRITTEN RELEASE OF ORAL: February 9, 1998

WORKERS' COMPENSATION - ENTITLEMENT TO PERMANENT SUBJECT:

PARTIAL DISABILITY BENEFITS

ADMINISTRATIVE LAW - STANDARD OF REVIEW ON APPEALS FROM THE WORKERS' COMPENSATION APPEALS TRIBUNAL

TO THE COURT OF APPEAL

WORKERS' COMPENSATION ACT, R.S.N.S. 1989, c. 508 (THE FORMER ACT). WORKERS' COMPENSATION ACT, S.N.S. 1994-

95, c. 10, s. 228 (THE CURRENT ACT)

WORKERS' COMPENSATION TRANSITIONAL **APPEAL**

REGULATIONS

SUMMARY:

The appellant was injured in the course of his employment on March 16, 1993. He received temporary total disability benefits until October 12, 1993 from the Board. His request for further temporary total disability benefits and a work hardening program were denied by the Board, and this decision was upheld by a Hearing Officer. On an appeal from the Hearing Officer's decision to the Workers' Compensation Appeals Tribunal, the Tribunal ordered that the appellant be provided with a work hardening program, but denied his claim for further temporary total disability payments on the ground that the decision of the Hearing Officer was not patently unreasonable.

The appellant appealed to the Court of Appeal.

ISSUE: Did the Tribunal err?

RESULT: The Court of Appeal allowed the appeal. It concluded that the

decision of the Court in **Doward v. Workers' Compensation Board (N.S.)** (1997), 160 N.S.R. (2d) 22 determined the result of the appeal. On a statutory appeal from the decision of a Hearing Officer to the Tribunal, the test of patent unreasonableness had no application. The Court remitted the matter to the Tribunal to determine the extent of

further temporary disability benefits.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET. THE FULL COURT DECISION CONSISTS OF 3 PAGES.